COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

SEPTEMBER 27, 1988

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COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS

TUESDAY, SEPTEMBER 27, 1988

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The subcommittee met, pursuant to call, at 2:05 p.m., in room B-318, Rayburn House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 7, 1988

SUBCOMMITTEE ON TRADE #24
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A PUBLIC HEARING ON COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a public hearing on Tuesday, September 27, 1988, on the subject of country-of-origin labeling requirements for imported meat and other food products. The hearing will be held in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 2:00 p.m.

In announcing the hearing, Chairman Gibbons stated, "During consideration of the Omnibus Trade and Competitiveness bill, certain proposals were offered to expand the requirements that imported meat and other food products be labeled as to their country of origin. Various Federal statutes, including the Tariff Act of 1930, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Federal Food, Drug and Cosmetic Act, already impose certain labeling requirements on food imports. The purpose of this hearing will be to consider the adequacy of the current requirements, and the need, if any, for further reforms."

In particular, the Subcommittee is interested in comments on whether labels should identify the country of origin of food ingredients, as well as the final products. In addition to domestic policy issues, the Subcommittee will examine the international trade implications of labeling requirements, including the consistency of various proposals with U.S. international obligations (such as under the General Agreement on Tariffs and Trade or bilateral trade agreements).

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Requests to be heard must be made by telephone to Harriett Lawler or Diane Kirkland [telephone (202) 225-1721] by the close of business, Tuesday, September 20, 1988. The telephone request should be followed by a formal written request to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee office [(202) 225-3943].

(MORE)

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony are not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are requested to briefly summarize their written statements. The full statement will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statements to the Subcommittee on Trade office, room 1136 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Persons submitting a written statement in lieu of a personal appearance should submit six (6) copies of their statements by the close of business, Friday, September 30, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing a written statement for the record of the printed hearing wish to have their statements distributed to the press and the interested public at the hearing, they may provide 75 additional copies for this purpose to the Subcommittee office, room 1136 Longworth House Office Building, prior to the start of the public hearing.

SEE FORMATTING REQUIREMENTS BELOW:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

* * * * * * * * * * *

Chairman GIBBONS. Ladies and gentlemen, I formally call the meeting to order.

If anybody is lost, this is a meeting of the Subcommittee on Trade of the Ways and Means Committee, and we are here today to discuss country-of-origin labeling for meat and processed food.

Under section 304 of the Tariff Act of 1930, that is the Smoot-Hawley Tariff Act of 1930, all articles, including meat of foreign origin, which are imported into this country must be legibly and conspicuously marked to indicate in English the name of the country of origin.

If, however, a product of foreign origin is substantially transformed in U.S. commerce, so that it becomes a product of the United States, the country-of-origin label requirement no longer applies.

This so-called doctrine of substantial transformation and its relationship to the country-of-origin marking requirement has long been recognized by the Customs Service and by our courts.

Today we shall review the current administration of our country-of-origin labeling for imported food products, including related regulations under the Meat Inspection Act, and the need for any reform of the current laws.

In particular, we shall explore the usefulness of extending country-of-origin requirements to food products as they are transformed into manufactured or processed food.

Before we begin with our first witness I would like to recognize Mr. Stenholm, the Congressman from Texas, who is chairman of the Agriculture Subcommittee on Livestock, Dairy, and Poultry. Then we will hear from Mr. Lewis, who is also a member of that committee and one of my colleagues from Florida testify. After that, we will have a number of Government witnesses and experts from the public and private sector.

Mr. Stenholm.

STATEMENT OF HON. CHARLES W. STENHOLM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND CHAIRMAN, SUBCOMMITTEE ON LIVESTOCK, DAIRY, AND POULTRY, COMMITTEE ON AGRICULTURE

Mr. STENHOLM. Mr. Chairman and other members of the subcommittee, let me begin my brief opening remarks by expressing my sincere gratitude for your willingness to review a very complex issue—country-of-origin labeling requirements for imported meat and other food products.

As you are aware, the U.S. Department of Agriculture's meat animal product import program is based on the statutory provisions of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). Moreover, these Federal statutes were established to assure that meat and poultry products moving in interstate and foreign commerce for use as human food are safe, wholesome, and accurately labeled.

As will be discussed this afternoon, the task of assuring the wholesomeness of imported meat animal products is accomplished by centering on two major activities: one, the review of foreign inspection systems; and port of entry inspections.

The House Agriculture Subcommittee on Livestock, Dairy and Poultry, which I serve as chairman, has conducted several recent oversight hearings regarding the effectiveness of USDA-FSIS inspection programs.

Let there be no doubt we have the safest and most wholesome food supply in the world. Yet, we cannot afford to let any opportunity slip away in making a good food delivery system even better.

Mr. Chairman, as I pointed out yesterday during House consideration of the "Agricultural Research Act of 1988," there is clear and overwhelming scientific evidence to support a move away from traditions and habits of the past to a newer system and means of solving many of the deficiencies in agricultural production and processing systems.

In this endeavor, I believe the best strategy lies in a three-pronged approach that combines research, proper regulation and evaluation, and consumer education.

In the recognition of time, I will conclude my remarks by commending my fellow Agriculture Committee colleague, Tom Lewis, for pursuing legislation such as H.R. 2920. This legislation has served as a useful vehicle for discussing a very important and contentious issue, and hopefully bringing the issue to a positive conclusion.

Again, Mr. Chairman, I appreciate the courtesies which you and your staff have extended to me and to my staff and I look forward to listening to the testimony today.

Chairman GIBBONS. Thank you.

I want to assure you that you and your subcommittee members and your staff are welcome to all our deliberations and we look forward to working with you on further consideration of this matter.

Our next witness is Mr. Tom Lewis, who is my friend and a distinguished colleague from the State of Florida who is the author of this legislation.

Tom, you may proceed as you wish.

STATEMENT OF HON. TOM LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. LEWIS. Thank you, Mr. Chairman.

I do have a full testimony——

Chairman GIBBONS. I invite both of you to join me at the table and stay as long as you can to hear other witnesses and to join with me in the questioning of the witnesses that you would like to.

Mr. LEWIS. I will take advantage of that. I will have to leave for 20 or 30 minutes, but I will return.

I am pleased to have this opportunity to testify before your subcommittee. I want to thank you for keeping your commitment to work with me and my colleagues on the Agriculture Committee to address changes in current law dealing with country-of-origin labeling for meat and meat products.

Today, we continue the debate on country-of-origin labeling requirements. I look forward to hearing testimony from panelists on both sides of the labeling issue.

Let me begin my stating that I do not pretend to know all the answers to questions that will be raised during this hearing. What

I do know, however, is that the provisions of current law dealing with country-of-origin labeling of meat products are not adequate.

The need for reform of current labeling requirements was addressed in a field hearing of the House Committee on Agriculture, Subcommittee on Dairy, Livestock and Poultry, in Florida during the spring of 1987. Representatives from various producer groups and the Commissioner of Agriculture for the State of Florida, unanimously agreed on the need for an effective labeling requirement. These sentiments are shared by the American Farm Bureau, Florida Farm Bureau, and the Environmental Policy Institute, who have provided me with written statements for the record endorsing a labeling requirement.

I do not raise this issue to address a food inspection problem nor do I propose that labeling will solve the problem. But what I do know is that the American consumers should have the opportunity to know whether or not the products they consume contain imported or domestic meat.

What is important to remember is we are not talking about automobiles and computers, but food.

The labeling of meat and meat products sold in this country will provide the American consumer and the American meat producer with the consideration they are entitled.

Moreover, the American meat producer has invested much of his time and money to produce and promote a quality domestic meat product.

American meat producers are proud of their product and believe the lack of proper identification is unfair to producers and consumers nationwide.

My bill, H.R. 2920, requires labeling on wholesale and retail meat or meat food products, whether it be imported or domestic, and takes a tough stand on those who knowingly violate the labeling requirement.

I believe this provision removes concern that such a labeling law imposes an unfair trade barrier given its application on both imported and domestic producers.

Mr. Chairman, I as well as farm organizations such as the American Farm Bureau and consumer groups believe labeling laws are long overdue.

American consumers continue to unknowingly consume meat and meat products assuming they are domestically produced.

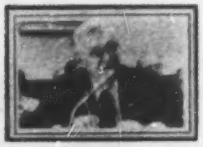
My bill addresses this problem in an equitable fashion.

Clearly the American consumer and the American producer deserve no less.

That concludes my testimony, Mr. Chairman.

Chairman GIBBONS. Thank you, Mr. Lewis.

[The statement of Mr. Lewis follows:]



news release

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HONORABLE TOM LEWIS
OF FLORIDA

testimony before
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE
September 27, 1988

Mr. Chairman, I am pleased to have this opportunity to testify before your subcommittee. Thank you for keeping your commitment to work with me and my colleagues on the Agriculture Committee to address changes in current law dealing with country of origin labeling for meat and meat products.

Today, we continue the debate on country of origin labeling requirements. I look forward to hearing testimony from panelists on both sides of the labeling issue. Let me begin by stating that I do not pretend to know all the answers to questions that will be raised during this hearing. What I do know, however, is that the provisions of current law dealing with country of origin labeling of meat products are not adequate.

The need for reform of current labeling requirements was addressed in a field hearing of the House Committee on Agriculture, Subcommittee on Dairy, Livestock and Poultry, in Florida during the Spring of 1987. Representatives from various producer groups and the Commissioner of Agriculture for the State of Florida, unanimously agreed on the need for an effective labeling requirement. These sentiments are shared by the American Farm Bureau, Florida Farm Bureau and the Environmental Policy Institute, who have provided me with written statements for the record endorsing a labeling requirement.

The Food Security Act of 1985 directed the United States General Accounting Office to study the feasibility of requiring all imported meat and meat food products to be labeled by country of origin. Published in September of 1987, the report outlines the positions of the groups involved in the debate, and concludes by finding: "we were unable to find written evidence indicating consumers' overall views on the labeling of imported meats... and thus were unable to justify the cost of implementing, monitoring, and enforcing such a requirement". This conclusion misses the point.

Mr. Chairman, you know that the world has become a much more accessable place. The United States is no longer the only dominant participant in the global market. As a country, we are dependent on this world market to trade our goods and services, and to purchase those products and services we desire. Without question, America's continued economic prosperity is intermingled with international trade.

Given this context, how best can we safeguard the interests and health of the American people with regards to food imports? As sovereign nations, it is natural for each country to have their own inspection programs, which in order to export meat products to the United States, must be judged by law to impose requirements at least equal to those imposed in the United States. This broad criteria can create a host of problems concerning pesticide residues and drug and chemical usage.

I do not raise this issue to address a food inspection problem nor do I propose that labeling will solve the problem. But what I do know, is that the American consumers should have the opportunity to know whether or not the products they consume contain imported or domestic meat. What is important to remember is we are not talking about automobiles and computers, but food. The labeling of meat and meat products sold in this country will provide the American consumer and the American meat producer with the consideration they are entitled. Moreover, the American meat producer has invested much of his time and money to produce and promote a quality domestic meat product. American meat producers are proud of their product and believe the lack of proper identification is unfair to producers and consumers nationwide.

Under present law, the U.S. Department of Agriculture does require country of origin labeling of imported meat. Unfortunately, the labeling requirement does not address the issue of imported meat which is processed or blended once in the United States. According to the USDA, imported meat makes up approximately 23 percent of this Nation's entire beef processing supply. Slightly more than 50 percent of the imported beef is used in sausages, hotdogs, chili, stews, soups and frozen dinners. So while we require such labeling, the interpretation of the law and its contribution toward informing the consumer are minimal at best.

My bill, H.R. 2920, requires labeling on wholesale and retail meat or meat food products, whether it be imported or domestic. I believe this provision removes concern that such a labeling law imposes an unfair trade barrier given its application on both imported and domestic producers.

In addition, the bill does not require the labeling of meat products at restaurants but rather requires that meats received by eating establishments be labeled as to the country of origin. Such a provision allows the restaurant the choice of advertising as to their meat product's country of origin.

And finally, my bill takes a tough stand against those who knowingly continue to violate the labeling requirement by withdrawing inspection services to those importers who have been found to have committed a third violation of the labeling law. Such a provision sends a firm, fair and decisive message regarding intent.

Mr. Chairman, farm organizations such as the American Farm Bureau and I, as well as consumer groups, believe labeling laws are long overdue. American consumers continue to unknowingly consume meat and meat products, assuming they are domestically produced. My bill addresses this problem in an equitable fashion. Clearly the American consumer and the American producer deserve no less.

Chairman GIBBONS. I don't have any questions.

Mr. Crane, do you have any questions?

Mr. CRANE. No.

Mr. SCHULZE. One brief question for our colleague. Can you tell me what the inspection processes are in foreign countries?

Mr. LEWIS. In foreign countries? There are several types. Countries exporting meat to the United States, must have inspection services that have been approved by the U.S Food Safety and Inspection Service. That is, their process must be at least equal to those of this country. We also have inspectors in this country responsible for inspecting meat at the port of entry.

This is not an inspection process that we are talking about. The legislation addresses that if your wife or you yourself go to a store and want to buy a can of stew and you look at the label on that can of stew if you look and it says nothing on it about the meat, you would think it is 100 percent American beef.

But if it has a portion of American beef, it would say that; if it has a portion of foreign beef, it would say that. If it had kangaroo meat mixed with it or it has some other kind of meat mixed with it, it would say that as well. Labeling today does not really do that.

Mr. SCHULZE. So current law would not require the package to have a kangaroo meat label if it was kangaroo meat?

Mr. LEWIS. Yes.

Mr. SCHULZE. So that your concern is not as much the inspection process or what chemicals may be in that meat as much as just present the knowledge of origin?

Mr. LEWIS. That is correct. The people that I have talked to and have discussed this with, feel that it would make a big difference to know whether a product is made in the United States or coming in from abroad, particularly involving sales from the shelves.

Mr. SCHULZE. In other products I am aware of a great dichotomy in inspection procedures and in cleanliness, in handling and canning. I am surprised that you are not concerned with that or there are no problems with that.

Do I follow you correctly that there are no problems with those things?

Mr. LEWIS. I am certainly not naive enough to believe that there are no problems with our inspection process. We have had hearings which show a lack of determination as far as the inspection process and particularly in certain products coming into this country as well as products in the United States are not being inspected properly. That is a different issue.

Yes, I am concerned about that and the Agriculture Committee is looking at that particular problem.

Mr. SCHULZE. I guess what I am getting at is the health hazard. Do I hear you that there is no health hazard or you are not concerned about a health hazard in imported meat or products?

Mr. LEWIS. Mr. Schulze, I think there is a health hazard in anything imported or domestic, and that is why you have inspection systems. I don't believe the integrity of those inspection systems is such that we are 100 percent correct in everything.

We see botulism and things like that which do happen with some of the greatest inspection processes.

Chairman GIBBONS. Thank you, Tom.

We next have the U.S. General Accounting Office, Mr. John Harman.

STATEMENT OF JOHN W. HARMAN, ASSOCIATE DIRECTOR, RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY MARY KENNEY AND ANDREW FINKEL

Mr. HARMAN. Before I begin summarizing my statement, which you do have a full copy of——

Chairman GIBBONS. Let me stop and say, gentlemen, is there objection—we can put all the statements in the record and we will put them all in without objection. All statements submitted today will be included in the record and the witness may proceed as he or she wishes.

Mr. HARMAN. Thank you, Mr. Chairman.

I would like to introduce my colleagues at the table. To my left is Mary Kenney, who was responsible for preparing the report that provided the basis for the testimony. On my right is Andrew Finkel, who has been heavily involved in the issue of food labeling in general for a number of years and is considered to be somewhat of an expert in that area.

We are pleased to be here today to discuss the merits of extending country-of-origin labeling requirements for imported meat and other food products.

My statement is based on a report we issued last year in response to a mandate contained in the Food Security Act of 1985.

In short, Mr. Chairman, we believe extending country-of-origin labeling requirements beyond current law is not a good idea. This conclusion is based on our review of three issues that form the basis for arguments for and against the proposal.

First is the contention that consumers have the right to know what they are purchasing. Proponents argue that consumers have that right and should be fully informed so they can better prepare and evaluate their food purchases. That certainly is a very strong argument.

Opponents argue that imported meat does not pose health or safety problems because it cannot be introduced into domestic commerce until it passes inspection. Thus they find such labeling requirements to be of no value or benefit to consumers.

In our work, we have found little evidence to support the right-to-know argument; that is, we were unable to find meaningful research studies that would shed some light on consumers' views or perceptions on labeling imported meat or meat food products.

The second issue concerns costs. Opponents argue that compliance with an enforcement of extended country-of-origin labeling requirements would result in additional expenses for the food industry and the Federal Government.

While we could find no specific studies on the overall cost to implement and/or enforce extended labeling requirements, it is clear to us that additional costs would be incurred. These would include additional operating costs, logistical problems and increased record keeping to maintain country-of-origin identity throughout the entire food distribution chain.

For example, costs would rise for meat-processing operations and food manufacturers who often mix supplies of imported meat with domestic meat. They would have to separate their production lines to isolate items containing only domestic meats from items containing both domestic and imported meats or imported meats only.

Other costs would include increased labeling costs, particularly additional printing costs and the cost of maintaining label inventories. Also, there would be increased overhead costs to the extent that production would have to be stopped each time labels were changed.

In 1985, the Department of Agriculture estimated that it would cost meat processors and food manufacturers, which are only one part of the food distribution chain, anywhere between $18.2 and $27.6 million in the first year of extended country-of-origin labeling.

USDA also estimated that after the first year, compliance costs could be between $750,000 and $1.2 million a year.

In addition to industry costs, enacting extended labeling requirements would bring with it new enforcement needs and costs.

For example, if country-of-origin labeling were extended to the retail level, USDA would have to expand its enforcement efforts. The cost of enforcing extended country-of-origin labeling requirements at the more than 500,000 U.S. retail stores and restaurants alone could be substantial.

The third and final issue deals with the possible trade impact of extended labeling. According to industry representatives, legislation requiring country-of-origin labeling of meat and meat food products beyond that currently required could adversely affect this country's trade position.

The Congressional Research Service also made this point in a 1985 study of imported meat. CRS stated that a labeling requirement may violate U.S. obligations under the General Agreement on Tariffs and Trade (GATT). This agreement requires imported products to be treated no less favorably than domestic products.

GATT specifically prohibits countries from applying regulations to internal sales that would afford protection to domestic products. According to CRS, labeling could convey the impression that imported meat is not as safe as domestic meat, thus creating a nontariff trade barrier.

After assessing these issues, we believe there is insufficient evidence that the benefits to be gained by extending country-of-origin labeling throughout the food distribution chain would justify the cost of implementing, monitoring and enforcing such a requirement.

In addition, such a requirement may violate trade obligations under GATT.

Accordingly, we do not recommend a change to the labeling requirements on imported meat and meat food products.

This concludes my summary statement, Mr. Chairman. I will be happy to answer any questions that you or committee members may have.

[The prepared statement and chapter 6 of the GAO report, "Imported Meat and Livestock," follow:]

Statement of
John W. Harman, Associate Director
Resources, Community, and Economic
Development Division

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the merits of extending country-of-origin labeling requirements for imported meat and other food products beyond those requirements currently existing. With some exceptions, current law requires that every imported article or its container be conspicuously marked with its country of origin. These country-of-origin markings are to remain clear to the ultimate purchaser in the United States. As now defined, the "ultimate purchaser" is generally the last person in the United States who will purchase the article in the same form in which it was imported. The extension of these requirements that you are now considering would revise current law by extending country-of-origin marking requirements to all imported meat and meat food products to more parts of the food distribution chain, perhaps even requiring signs in eating establishments and notices on menus indicating that imported meat is served.

My statement today is based on a report we issued last year in response to a mandate contained in the Food Security Act of 1985.[1] Our report included an analysis of the imported meat labeling issues you are now exploring. Of course, in preparation for this hearing the information from our report has been updated where necessary. Further, while our work in this area focused on imported meat and meat food products, we believe that the conclusions drawn from our analysis are applicable to other food products as well.

RESULTS IN BRIEF

In short, Mr. Chairman, we believe extending country-of-origin labeling requirements to imported meat or other food products beyond current law is not a good idea. After carefully reviewing available information on both sides of this issue, we concluded that the costs of implementing, monitoring and enforcing extended country-of-origin requirements outweigh the benefits derived by having them.

In addition, to extend country-of-origin labeling requirements farther down the food distribution chain could violate U.S. trade obligations under the General Agreement on Tariffs and Trade (GATT). Under GATT, countries are prohibited from applying regulations to internal sales that would afford protection to domestic products. Some industry representatives and others

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[1]Imported Meat and Livestock: Chemical Residue Detection and the Issue of Labeling, GAO/RCED-87-142, Sept. 30, 1987.

believe that import-labeling requirements could convey the impression that imported meat is not as safe as domestic meat, thus creating a nontariff trade barrier.

Before providing you with the details of our analysis, let me briefly provide some overall comments on the labeling of imported meat and meat food products.

BACKGROUND

Imported meats are purchased and used domestically by, among others, brokers, packers, processors, wholesalers, restaurants, food manufacturers, and large chain supermarkets. Food industry representatives told us that they purchase imported meat for a variety of reasons including its (1) availability in needed amounts, (2) low bacterial count, (3) quality and (4) low cost.

During calendar year 1987 the U.S. imported considerable amounts of beef, pork, and lamb. Specifically, we imported 1.5 billion pounds of beef, 681 million pounds of pork, 268 million pounds of canned hams, and 37 million pounds of fresh and frozen lamb. Other imported meats included canned corned beef, and preserved meat products.

Our primary foreign sources of beef and lamb were Australia and New Zealand. Our primary foreign sources of pork were Canada and Denmark. Most of the meat is manufacturing grade, which is further processed. Thereby altering the taste, consistency, or appearance of the meat. Imported meat is frequently mixed with domestic meat to produce such items as sausage or hamburger patties or may become an ingredient in canned or frozen foods such as soup or TV dinners. The ratio of imported to domestic meat in any domestically processed product depends on a variety of factors, including availability, cost, and product specifications.

In 1987 the United States imported about 9 percent of its red meat consumption.

The issue of extending country-of-origin labeling requirements is not new. Over the past 20 years or so, interested parties in this country have expressed their views on extending country-of-origin labeling of meat and meat food products farther down the food chain. Generally, livestock producers and their trade associations have favored the concept, while meat importers, processors, food service operators, other users of meat, and their trade associations have opposed it. Proponents of the idea assert that the consumers have a "right to know" the country of origin of

the meat they are purchasing. Opponents of the idea have taken the position that such requirements are unnecessary and likely to be costly. These increased costs would eventually be paid by consumers. Another point made by opponents is that such requirements would act as a disruptive nontariff trade barrier that would create a commercial disadvantage for imported meat by raising the costs for those who would otherwise handle or use it.

LITTLE EVIDENCE TO SUPPORT
"RIGHT TO KNOW" ARGUMENT

Since 1963 various bills have been introduced in the Congress that would have extended current country-of-origin labeling requirements farther down the food distribution chain. However, none of the bills have become law. Over the years, the arguments in favor of enacting such legislation have centered on the consumers "right to know." The position taken by the National Cattleman's Association (NCA) typifies the proponents' position on this issue. The NCA believes that the consumers should be fully informed about what they are purchasing so that they can better compare and evaluate their food purchases. Accordingly, the NCA believes extending country-of-origin requirements will help accomplish this. In addition, when we were preparing our report on extending labeling requirements, the American Sheep Producers Council told us that it favored extending country-of-origin labeling requirements because it believes that some consumers find imported cuts of lamb inferior in quality to domestic cuts. Under current requirements, once a lamb carcass is dismantled after reaching the United States, imported lamb cuts are not required to bear country-of-origin labels. Hence, consumers are often unable to distinguish between imported and domestic lamb at the grocery store.

During our work on this issue, we attempted to identify evidence that would shed some light on consumers' views on labeling imported meats or meat food products. However, we were unable to find meaningful studies on this topic. In addition, USDA officials and representatives from various components of the food industry told us that they were unaware of any studies in this area. In doing our work, however, we did obtain opposing points of view on the need to extend country-of-origin labeling requirements.

In preparing our 1987 report, most food industry representatives we talked with strongly opposed extending current imported-meat labeling requirements. In their view, imported meat does not pose health or safety problems because it cannot be introduced into domestic commerce until it passes inspection.

Thus, they viewed such labeling requirements to be of no redeeming value or benefit to consumers. In their opinion, consumers were more interested in purchasing a wholesome, quality product at a reasonable cost. Further, some food industry representatives told us that they believed that extended labeling of meat was discriminatory. Essentially, their point was that these requirements would be targeting those in the meat handling and processing industry without targeting those who incorporate imported food articles other than meat with domestic commodities in food processing, such as mixing imported cocoa with domestic sugar in making chocolate candy. In this regard, representatives of food manufacturing companies believe that extending country-of-origin labeling to meat and meat food products would encourage additional legislation requiring similar labeling for other imported food items like vegetables and spices.

COSTS OF REQUIRING EXTENDED LABELING

Compliance with and enforcement of extended country-of-origin labeling requirements would result in additional expenses for the food industry and the federal government. While we could find no specific studies on the overall costs to implement and/or enforce extended labeling requirements, it is clear that additional costs would be associated with implementing, monitoring, and enforcing such requirements. These costs would be passed on to consumers and taxpayers.

Currently, all containers of fresh, frozen, or chilled imported meat are required to indicate the country of origin. After such containers are federally inspected and passed for entry into the United States, the products lose their identity and are treated as domestic products if they change form or are removed from labeled containers.

If country-of-origin labeling of imported meat were required up to the point of final consumption, each component of the food distribution chain, including consumers, would be affected. Users of imported meat throughout the industry would likely incur additional operating costs, logistical problems, and increased recordkeeping in order to maintain country-of-origin identity throughout the food distribution chain. The industry would experience initial costs to implement the requirements and additional, recurring costs to carry out the requirements.

For example, costs would rise for meat processing operations and food manufacturers which often mix supplies of imported meat

with domestic meat. Under extended labeling requirements, they would have to separate their production lines or production runs to isolate items containing only domestic meats from items containing both domestic and imported meats or imported meats only. Further, if the labeling requirements were extended to the ultimate consumer, additional labels would be needed according to whether or not a product contained imported meat. Printing costs and the costs of maintaining label inventories would rise. Overhead costs would be higher to the extent that production would have to be stopped each time labels were changed.

In 1985, USDA estimated that it would cost meat processors and food manufacturers from $18.2 million to $27.6 million in the first year of extended country-of-origin labeling. USDA also estimated that after the first year annual compliance costs could be between $750,000 and $1.2 million. Of course, our previous example highlights only one part of the food distribution chain. Depending on how far country-of-origin labeling requirements were extended, comparable kinds of implementation problems could be expected for all the other links in the chain--specifically meat importers, feedlots, slaughter plants, packing plants, wholesalers, retailers, and restaurants.

In addition to industry costs, enacting extended labeling requirements would bring with it new enforcement needs and costs. USDA has stated that enforcing these requirements would be costly and difficult. For example, in addition to developing new regulations, USDA inspectors located in livestock slaughter and processing plants would have to take on new responsibilities like (1) monitoring the incoming product to identify imported meat, and (2) ensuring that appropriate labels designating the country-of-origin were on the final product if imported meat were an ingredient.

Further, if country-of-origin labeling were extended to the retail level, USDA would have to expand its enforcement efforts. Because there are no known tests available for identifying unmarked meat as to its origin, detailed monitoring systems would be required to check that the identity of the meat's originating country was retained throughout the food distribution chain. Currently, meat and meat products for sale in retail outlets or restaurants are inspected by local health officials. USDA now has only a limited enforcement role in reviewing the activities of retail stores and restaurants. Although the costs of this kind of expanded enforcement would depend on the level of enforcement chosen, the cost of enforcing extended country-of-origin labeling requirements at the more than 500,000 U.S. retail stores and

restaurants would be substantial. Further, current laws require that all costs of federal meat inspectors, except for overtime and holiday work, be borne by USDA, which means that the taxpayer would ultimately pay these costs through taxation.

POSSIBLE TRADE IMPACT
OF EXTENDED LABELING

Legislation requiring country-of-origin labeling of meat and meat food products beyond that currently required could adversely affect this country's trade position. According to industry representatives, extended labeling requirements could be viewed as a trade barrier. The Congressional Research Service (CRS) also made this point in a 1985 study on imported meat.[2] Specifically, CRS stated that a labeling requirement may violate U.S. obligations under GATT which requires imported products to be treated no less favorably than domestic products. GATT specifically prohibits countries from applying regulations to internal sales that would afford protection to domestic products. According to CRS, labeling could convey the impression that imported meat is not as safe as domestic meat, thus creating a nontariff trade barrier.

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In our opinion, insufficient evidence exists that the benefits gained by extending country-of-origin labeling throughout the food distribution chain, would justify the cost of implementing, monitoring, and enforcing such a requirement. In addition, such a requirement may violate trade obligations under GATT. Accordingly, we do not recommend a change to the labeling requirements on imported meat and meat food products.

This concludes my statement. I will be happy to answer any questions.

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[2]Import Restrictions on Meat--History and Current Issues, 85-956ENR Sept. 19, 1985.

United States General Accounting Office

GAO

Report to Congressional Committees

September 1987

IMPORTED MEAT AND LIVESTOCK

Chemical Residue Detection and the Issue of Labeling

GAO/RCED-87-142

Chapter 6

Issues Involving Country-Of-Origin Labeling for Imported Meat

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), administered by the Treasury Department's Customs Service, requires that every imported article (or its container) be marked in a conspicuous place to indicate to an ultimate purchaser in the United States the English name of the article's country of origin unless one of a list of exceptions to the statute applies. The "ultimate purchaser," as defined by the Customs Service, is generally the last person in the United States who will receive the import in the same form in which it was imported.

The Food Security Act of 1985 directed us to study the feasibility of requiring all imported meat and meat food products to be labeled by country of origin. Although neither the Act nor its legislative history indicated how far through the food chain such a requirement would extend, we assumed for purposes of our study that the requirement would apply throughout the food chain until the food items, in either their original or changed form, reach the ultimate consumer. The Act also directed us to evaluate the feasibility of requiring eating establishments that serve imported meat or meat food products to inform individuals purchasing food from such establishments that the meat or meat food products served there may be imported.

Over the past 20 years or so, interested parties in this country have expressed their views on extending country-of-origin labeling of meat and meat food products until they reach the ultimate consumer. Generally, livestock producers and their trade associations have favored the concept, while meat importers, processors, food service operators, other users of meat, and their trade associations have opposed it. Proponents of the idea have cited the consumers' "right to know" the country of origin of the meat that they are purchasing, while opponents have indicated that such a requirement is unnecessary and likely to be costly.

Why Meats Are Imported

Imported meats are purchased and/or used by, among others, brokers, packers, processors, wholesalers, restaurants, food manufacturers, and large chain supermarkets.

Food industry representatives told us that they purchased imported meat because of its (1) availability in needed quantities, (2) low bacterial count, (3) consistent texture, which meets quality specifications, and (4) low cost. For example, a food manufacturer official who purchases imported meat used for processing by several domestic food

manufacturers said that he purchases directly from the foreign countries' slaughter plants because of packaging consistency, the absence of contaminants, and the low price.

Some food manufacturers' representatives told us that their companies used imported meats because domestic meat that meets their specifications for making certain products was not available on a consistent basis. They said that the quality of imported meats meets their established standards and formulas for use in manufacturing their products.

Forms and Types of Meats Imported by the United States

During calendar year 1986 about 1.06 billion pounds of manufacturing beef; 554 million pounds of pork for manufacturing, carcasses, and cuts; 279 million pounds of canned hams, and 39 million pounds of fresh and frozen lamb were imported into the United States. Other imported meats included canned corned beef, prepared sausages, and pickled and preserved products. More than 800,000 head of cattle, the majority from Mexico and Canada, and 1 million swine, virtually all from Canada, were imported during 1986.

Most of the meat was manufacturing grade meat, which is further processed by grinding, chopping, dicing, cooking, or canning, thereby altering the taste, consistency, or appearance of the meat. Imported fresh, chilled, or frozen beef or pork is usually either mixed with domestic meat to produce such items as sausage or hamburger patties or may become an ingredient in canned or frozen food products. The ratio of the imported to domestic meats in any domestically processed product depends on such factors as availability and cost at the time of purchase, as well as attaining the mix necessary to meet product specifications.

Beef

In the late 1950s and early 1960s, the United States produced much manufacturing grade beef, and imports were insignificant. Australia and New Zealand emerged as the primary sources of U.S. meat imports by the late 1950s and have continued to dominate, as domestic manufacturing grade meat has declined. Meat shipped from these countries is mostly in the form of manufacturing grade boneless beef or veal that may be fresh, chilled, or frozen.

In the past 20 to 25 years, domestic grain-fed beef cattle have produced high-value table beef cuts, such as roasts and steaks. The Food Marketing Institute, a trade association of food retailers and wholesalers, has been working with domestic producers to develop a product that would

meet the standards for manufacturing meat products. According to some food industry representatives, manufacturers prefer imported beef at an 85 to 90 percent lean/fat ratio compared with domestic processing beef at 65 to 70 percent. Most of the imported beef is for further processing, more than half of which goes into hamburger patties and ground beef; the remainder is used in sausages, chili, stews, soups, and frozen dinners. Australia and New Zealand provided about 581 million and 371 million pounds, respectively, in 1985. About 7 percent of the beef consumed in the United States is imported, although nearly 40 percent of the domestic ground beef supply contains imported beef.

Pork

According to a representative of the National Pork Producers Council, which represents about 90 percent of the domestic commercial hog producers, about 7-1/2 percent of the pork consumed in the United States is imported. According to the Council representative, fresh and frozen imported pork is purchased by packers, processors, wholesalers, and retailers. Most of the imported fresh, chilled, or frozen pork is in the form of fresh hams, shoulders, bacon, and ribs. Canned hams, mostly for retail sale, are also imported. In a May 1981 cost analysis on imported meat labeling, FSIS estimated that most of the imported fresh and chilled pork came from Canada (about 334 million pounds in 1985) and assumed that most of this product moved directly to wholesalers, retail outlets, or food service establishments. Most imported canned hams came from Denmark, about 12 million pounds, or 51 percent, in 1985.

Lamb

A representative of the American Sheep Producers Council (ASPC), the promotional arm of the domestic lamb and wool industry, told us that between 5 and 14 percent of the total lamb supply, at any given time, is imported. The ASPC representative also said that imported lamb is mostly frozen retail cuts and chilled whole lamb carcasses from Australia and whole frozen legs of lamb from New Zealand. During calendar year 1985 New Zealand exported about 26 million pounds and Australia exported about 7 million pounds of lamb to the United States.

The Issue of Extending Country-Of-Origin Labeling Requirements Is Not New

An extended country-of-origin labeling requirement for imported meat and meat food products has been pursued, at various times, by different organizations and interest groups for over 20 years. Since 1963 various bills that would have required country-of-origin labeling of imported meat and meat food products have been introduced in the Congress. However, none of these bills have become law.

During a June 24, 1980, hearing before the House Agriculture Committee's Subcommittee on Livestock and Grains on imported meat inspection and labeling, the National Cattlemen's Association (NCA), whose membership includes all segments of the nation's beef cattle industry, including cattle breeders, producers, and feeders, stated that it had established a policy that all meat items containing imported meat should be so identified. (As discussed later in this section, at the time of our audit, NCA no longer had a policy on requiring imported meat to be labeled.) In its prepared statement, NCA supported legislation under consideration at that time that would have required extended country-of-origin labeling of meat and meat food products. NCA representatives said that the consumers have a right to know what they are buying and to compare and evaluate in order to make an informed and intelligent choice in food purchasing. Some of the other witnesses at the hearing also favored the labeling requirement on the basis of the consumers' right to know.

At the same hearing, the Meat Importers Council of America, Inc. (MICA), a national trade association for beef importers, stated that MICA was opposed to the proposed labeling legislation. It stated that the labeling bill, as well as a bill that would have imposed more stringent testing and inspection requirements for imported meat and meat food products, would seriously burden and restrict the importation and distribution of imported beef by fueling inflation, burdening trade, and working against the economic interests of all U.S. consumers. MICA stated that imported beef was needed for production of hamburger, sausage, and other manufactured food items. Further, MICA stated that these bills would serve no legitimate consumer purpose and were not prompted by the consumers' "right to know." MICA said that passing the legislation would act as a serious and disruptive nontariff trade barrier, which would create a serious commercial disadvantage for imported beef by raising the costs to those who would otherwise handle or use it.

During the 1980 hearing, USDA's Assistant Secretary for Food and Consumer Services said that the administration recognized the importance of the consumers' right to know and favored strengthening public health

and consumer protection legislation. She stated, however, that the administration was opposed to the labeling legislation. She said that adoption of mandatory country-of-origin meat labeling legislation could result in higher prices on imported meat and meat food products and higher taxes imposed on U.S. citizens to cover the cost of administering the requirements. The National Restaurant Association testified that it opposed a country-of-origin labeling requirement because of the additional cost to implement and enforce such a requirement.

During our review we obtained published information on the issue of extending the requirement for country-of-origin labeling and discussed the issue with representatives of various parties that would be affected by such a requirement. Most of the arguments had not changed.

According to a September 1985 Congressional Research Service (CRS) study on imported meats, proponents of country-of-origin labeling for imported meats—mostly domestic beef cattle producers—argue that consumers have the right to know what they are buying, that is, whether the meat item purchased contains imported meat, and to make their choices accordingly.

An NCA representative told us that some NCA members no longer favor country-of-origin labeling of imported beef. Hence, at the time of our audit, NCA no longer had a policy on an imported meat labeling requirement.[1] The NCA official stated that NCA was neither in favor of nor against requiring imported meat to be labeled by country of origin.

The American Sheep Producers Council told us in August 1986 that it favored mandatory country-of-origin labeling because USDA permits imported whole lamb carcasses to be quality graded in this country. ASPC told us that on the basis of a July 1985 commissioned study of consumers' attitudes prepared for ASPC, it believes that some customers find imported cuts of lamb inferior in quality to domestic cuts. ASPC maintains that domestic sheep producers suffer when unlabeled fresh imported lamb is sold in the retail store along with domestic lamb. Under present requirements, once the carcass is dismantled, imported lamb cuts are not required to bear the country-of-origin label. Hence, consumers are often unable to distinguish between imported and domestic cuts of lamb in the grocery store.

[1] We learned that, subsequent to our audit, NCA adopted a policy in favor of requiring country-of-origin labeling of imported meat.

Lamb of both domestic and foreign origin may be graded by USDA. According to ASPC, at one time the consumer was able to distinguish between domestic and imported lamb by the USDA stamp. Before 1985 domestic lamb carcasses were permitted to be quality graded and stamped with the USDA grade (e.g., choice or good), while imported carcasses could not be quality graded and were inspected only for wholesomeness by USDA and stamped "USDA Inspected." According to ASPC, beginning about 1985 this distinction was eliminated, and USDA was permitted to quality grade imported lamb carcasses. Thus, imported lamb can now be advertised as a "USDA Choice" product, leaving the consumer with no way of identifying imported cuts of lamb. According to USDA, imported fruits and vegetables and any imported meat can be graded, but meat usually is not because most imported meat is of manufacturing grade. USDA grades domestic livestock only at the point of slaughter except when an exemption request is received from domestic processing plants to have only whole carcasses of imported lamb graded at their sites. USDA will then grade whole lamb carcasses, imported mostly from New Zealand and Australia, at U.S. processing plants. According to USDA, fewer than 100 imported lamb carcasses had been quality graded in the year since permission to do so was granted.

Some food industry representatives told us that they viewed country-of-origin labeling of meat as being discriminatory to users of imported meats. Representatives of the meat processing and restaurant industries told us that their industries have traditionally opposed labeling of meat, claiming that it would unfairly burden their industries without targeting those manufacturers who incorporate imported food articles other than meat with domestic commodities in food processing, such as mixing imported cocoa and domestic sugar in making chocolate candy. Representatives of food manufacturing companies that use imported meats also expressed concern that requiring extended labeling for imported meat would encourage additional legislation requiring country-of-origin labeling for imported nonmeat food items such as vegetables and spices, that they also use in their products.

Most food industry representatives we talked with strongly opposed extending country-of-origin labeling. In their views, imported meat does not pose health or safety problems because imported meat cannot be introduced into domestic commerce until it passes inspection. They viewed country-of-origin labeling to be of no redeeming value or benefit to consumers. They said that in their opinion, consumers are more interested in purchasing a wholesome, quality product at a reasonable cost.

During our review, we were informed by some USDA officials and representatives from various components of the food industry, including trade and food manufacturing representatives, that they were not aware of any studies of consumers' views on labeling imported meats and/or meat food products.

Industry Costs of Complying With Labeling Requirement

Industry representatives told us that compliance with a country-of-origin labeling requirement for imported meat would lead to additional industry costs that ultimately would be passed on to the consumer. However, the industry representatives were not able to provide us with any specific studies on the costs to industry of complying.

Currently, all containers of fresh, frozen, or chilled imported meat are required to indicate the country of origin. After such containers are federally inspected and passed for entry, the products lose their identity if they change form or are removed from labeled containers, and they are treated by USDA as domestic products. Most imported processed meat food products, such as canned hams, canned corned beef, and prepared sausages, indicate the country of origin on their containers when they finally reach the household, because these products are usually sold at retail in their imported forms to the ultimate purchasers, who in such cases are the ultimate consumers. Some imported items, such as canned hams, are sold to establishments such as delicatessens. In such cases, the ultimate consumer may not be aware of the country of origin if the meats are removed from the can before sale to consumers. Some imported frozen lamb cuts are sold in retail stores in their imported form and, hence, are still labeled by country of origin when they reach the household.

Livestock offered for import to the United States are inspected for signs of disease by USDA's Animal and Plant Health Inspection Service. After APHIS inspection and acceptance, imported live animals are, for all practical purposes, considered part of the domestic food chain and are not labeled as to country of origin.

If country-of-origin labeling of imported meat was required up to the point of final consumption, each component of the food chain, including consumers, would be affected, directly or indirectly. Users of imported meat in the food industry would likely incur additional operating costs, logistical problems, and/or increased recordkeeping, as discussed below, in order to maintain country-of-origin identity of imported meat throughout the food chain. The food industry would experience initial

costs to implement the requirement and then additional recurring costs to carry out the requirement. The costs would likely be included in the price the ultimate consumer would pay for the products.

Meat Importers/Brokers

Meat importers/brokers who receive meat products directly from foreign plants often sell the meat products to food processors or wholesalers in their imported form. Under such conditions, the country-of-origin labels remain on the product containers because the buyer is the "ultimate purchaser." From this point forward along the food chain toward the consumer, however, under a country-of-origin labeling requirement, the quantity of imported fresh, chilled, and frozen meat demanded would decline because of higher costs for repacking and processing, and prices to importers/brokers could be lower. Over the long run, fewer pounds might be purchased by food processors, wholesalers, and retailers, including buyers for food service establishments.

Feedlots, Ranges, Slaughter Plants, and Packing Plants

Most imported live animals are shipped to feedlots, ranges, or slaughter plants, and after slaughter, their carcasses are shipped to meat packers and/or further processors. If country-of-origin labeling was required, imported animals would have to be kept physically segregated from the domestic livestock, or in some way marked in the feedlot or on the range. Slaughter plants would be required to maintain the country identity before and after slaughter. Plants with one slaughter line might have to establish "start/stop" periods whereby, for a given period of time, only imported animals would be slaughtered. Such procedures could lead to additional operating costs for domestic slaughter plants. We did not find any estimates of how many operations could be affected because the number of plants that slaughter imported livestock is not known.

Meat Processors and Food Manufacturers

Some meat processing operations and food manufacturers often integrate supplies of imported meat with domestic meat. These processors and manufacturers would have to separate their production lines or production runs to isolate items containing only domestic meats from items containing both domestic and imported meats or imported meats only.

If country-of-origin labeling was extended to the ultimate consumer, meat processors and food manufacturers would need additional labels according to whether or not a product contained imported meat and, possibly, what percentage of the product was imported meat. Printing

costs and costs of maintaining processors' label inventories would rise. Overhead costs would be higher to the extent that production would have to be stopped each time labels were changed as the origin and/or amount of the imported meat ingredient changed. Meat processors and food manufacturers would be required to track and follow the inclusion of even a small amount of imported meat if it is used in their production operations, depending on the requirements of the law.

In a July 1985 letter to the Chairman of the House Committee on Agriculture commenting on proposed labeling legislation, USDA stated that the labeling requirement could impose an unduly heavy burden on the meat processing industry and particularly on small businesses that lack the personnel and facilities to meet such requirements.

Some food manufacturers are also in the private label business; that is, they make products for other private companies, such as supermarkets, to sell, using their own brand names. Requiring country-of-origin labeling could increase overhead cost.

According to some food manufacturer representatives, the amount of imported and/or domestic meat used in a given product may be minimal. For example, a company making vegetable beef soup may use a small amount of beef compared with the other ingredients, such as the different kinds of vegetables, used in making the product. One food manufacturer representative told us that his company intermingles some fresh imported meat with fresh domestic meat to make one of its products. The product is then shipped to several different processing plants for further processing. This representative said that substantial costs would be involved if country-of-origin labeling was required. Each of the different processing plants would need to have different sets of labels because the percentage of imported and domestic meat used in production constantly changes with the availability and cost of the meats. The representative said the mere operation of the company would create logistical problems if country-of-origin labeling was required because the company is constantly shipping its products to the various processing plants.

Other food manufacturers said that they would also experience logistical problems because of the number of different products they produce and the constant changes in the amount of imported and/or domestic meat used to make a given product. They added that because most products are manufactured on a "batch" basis, the batches would have to be kept separate by lot and code number so as not to lose their identity.

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One representative said that his company manufactured different products and has a producing plant and receiving plants. An "in-house" label is used in the producing plant, and when the product is sent to a receiving plant, the consumer label is placed on the product's container. The representative said that, logistically, a country-of-origin labeling requirement would be difficult to implement because the company would have to make sure like batches remained together throughout the entire manufacturing process. He added that the company would have to stop the production line to change the labels to match the product being made, thus incurring additional production costs.

In May 1981 USDA analyzed the economic impact on the meat processing industry of changing labels if the extended labeling requirement went into effect. Three cost categories were analyzed: the cost of producing new films used to make the printing plates for printing labels; graphics design costs to redesign labels; and labor costs to prepare the label changes and have the labels approved by the industry's technical, management, and legal departments. USDA assumed the average incremental cost would be $150 per label. Using that assumption, USDA estimated that the direct, one-time costs to the meat industry for changing product labels would be from $11.7 million to $17.6 million. That would be equivalent to a range of $14.1 million to $21.2 million in today's prices.

According to USDA's May 1981 analysis, there also would be ongoing costs associated with monitoring, by industry and USDA, of imported products and labels in federally inspected plants. The cost of maintaining a dual system for inventory control procedures, one for domestic product and one for imported product, is one example of such costs.

As of September 30, 1985, there were about 6,700 federally inspected meat and meat and poultry slaughtering and/or processing plants. In its May 1981 study, USDA assumed that plants limited to slaughter only did not purchase imported meat. Eliminating such plants from the September 1985 total would leave about 6,400 plants that could be using imported meat. According to USDA's July 1986 letter to the Chairman of the House Committee on Agriculture, no explicit data exist on how many plants actually purchase imported meat, but meat industry representatives and meat industry consultants estimated in 1985 that 1,500 to 2,400 plants buy it.

These 1,500 to 2,400 plants would have to maintain double label inventories, segregate product inventories, and maintain continuous surveillance of domestic and imported meat to ensure a consistent product mix

for labeling purposes. Under a country-of-origin labeling requirement, USDA would have to establish regulations requiring meat processing operations using imported product to institute additional procedures to ensure proper final product labeling. In the July 1985 letter, USDA estimated that industry costs to develop and implement such procedures would be about $2,000 per plant. USDA estimated the total initial cost of setting up such procedures for all affected processors who buy imported meat at from $3 million to $4.8 million in 1985. USDAestimated that all industry costs together would range from $18.2 million to $27.6 million in the first year, if country-of-origin labeling is required, and that ongoing compliance costs thereafter would be between $750,000 and $1.2 million for all processors annually.

Meat Wholesalers and Retailers

Meat wholesalers buy and store meat for sale to grocery retailers, institutions, and other commercial users. Typically, meat wholesalers maintain large quantities of meat in their warehouses. Industry representatives told us that some large chain supermarkets maintain their own meat warehouses and would not be receptive to a country-of-origin labeling requirement. The representatives said that if country-of-origin labeling was required, duplicate inventory and display systems would have to be maintained by all meat wholesalers and retailers to ensure that imported meat retains its identity.

Restaurants

If country-of-origin labeling were required throughout the food chain, restaurant menus and/or notice changes would have to reflect country-of-origin information for all meat items sold. In the June 1980 hearing referred to earlier, a representative of the National Restaurant Association stated that recordkeeping and menu or notice change burdens imposed on the restaurant industry alone would place substantial costs on restaurateurs. He said that extensive recordkeeping systems would have to be set up to identify food items containing imported meat, changes would have to be made on restaurant notices/signs, and menus would have to be changed to reflect changes in imported meat content of the food offered for sale.

Industry representatives told us that some restaurants, including large fast food chains, use products made from imported meat mixed with domestic meat and meat products in their retail sales. Many of the chain fast food companies have central kitchens where products are made and then shipped to individual retail outlets. These mixed cuts produce an end product that meets each company's formula for such food items as

hamburgers, soups, and pizza. According to the National Restaurant Association representative, buyers for firms that purchase processed products such as hamburger patties often do not know if they are purchasing a total domestic meat or a mixed domestic and imported meat product. If country-of-origin labeling was required for restaurants, chefs preparing meals would have to isolate imported meat and products containing imported meat so that diners could be informed of the country of origin of food purchases. This could prove to be a burdensome task, according to some industry representatives.

Enforcement of Labeling Requirement

USDA and the food industry have expressed concern about enforcing an extended country-of-origin labeling requirement. In its July 1985 response to the House Committee on Agriculture, USDA stated that enforcing the proposed country-of-origin labeling requirements would be costly and difficult.

As noted earlier, industry representatives and consultants estimated in 1985 that 1,500 to 2,400 federally inspected meat processing plants buy imported meat. In livestock slaughter and processing plants where USDA inspectors are present now, the inspectors would have to undertake additional responsibilities. Inspectors would have to (1) monitor incoming product to identify imported meat and (2) ensure that appropriate labels designating the country of origin were attached to the final product if imported meat was an ingredient. If the plants were to use a dual system, some lots domestic and other lots imported, the inspection process would be further complicated.

According to USDA, it would have to expand its enforcement efforts at the retail level if country-of-origin labeling was extended to that level. There are no known tests available for identifying meat as to its origin, i.e., whether a piece of meat, either raw or cooked, could be tested and identified as domestic or as imported. Therefore, detailed monitoring systems would be required in order to check that the identity of the meat's originating country was retained throughout the food chain. Currently, meat and meat products for sale in retail outlets or restaurants are inspected by local health officials. USDA now has only a limited enforcement role in reviewing the activities of retail stores and restaurants, which are generally exempt from routine inspection under the Federal Meat Inspection Act. USDA becomes involved in these types of businesses if they are selling at a wholesale level. Although the costs of such expanded enforcement would depend on the level of enforcement chosen, the cost of enforcing country-of-origin labeling requirements at

the more than 500,000 U.S. retail food stores and restaurants would be substantial.

In a 1978 report, Economic Effects of Requiring Imported Meats To Be So Labeled, USDA stated that even if its inspectors checked labeling compliance at each retail store and eating establishment only three times a year, it would mean 1.3 million visits per year. At 1986 levels, that would imply more than 1.5 million inspections.

Current law requires that all costs of federal meat inspections, except for overtime and holiday work, be borne by USDA, which means that the public ultimately pays the costs through taxation. Industry representatives told us that the enforcement of a country-of-origin labeling requirement for imported meat would lead to additional expenses, which ultimately would be passed on to taxpayers or the consumers.

On the issue of requiring eating establishments to inform customers that they serve imported meat by displaying a sign containing such information or by including a statement on the menu, USDA stated in its July 1985 letter to the Chairman, House Committee on Agriculture, that such a requirement would be extremely difficult for the Department, as well as state and local governments, to enforce.

The Food Security Act of 1985 does not specify whether federal, state, or local governments would be responsible for enforcing this requirement. According to USDA, if it were assigned enforcement responsibility, some 280,000 eating facilities could come under its compliance program, requiring an additional 180 compliance officers to review each eating establishment at least once each year. USDA said that effective enforcement of such a requirement would necessitate continuous surveillance of all restaurant facilities, which would be more costly than once-a-year inspection. For these reasons, USDA believes the costs of implementing this requirement would far outweigh any benefits consumers would be likely to receive.

Other Factors to Consider With Respect to Extending Labeling Requirements

In addition to the costs of complying with and enforcing an extended labeling requirement, other matters that must be considered are the wording requirements for the labels used on the meat, meat products, and food items that contain imported meats; possible trade issues; and legal issues.

Wording of Labels

The additional wording and revision and/or updating of current labels that might result from an extended country-of-origin labeling requirement could also result in additional costs to the industry through compliance and to the government through enforcement, which would ultimately be passed on to the consumer/taxpayer. Currently, USDA must approve all labels for meat, meat products, and food items containing meat before the labels are used. USDA requires certain information to be shown on the label, including an accurate name and description of the item, the packer's or distributor's name and address, a list of ingredients in descending order of weight, and the net weight of the contents. USDA also has specific regulations regarding the relationship of the size and location of the label to the size and shape of the product's container. Although labels have a limited amount of space on which to put a large quantity of information, USDA officials told us that requiring additional wording regarding origin should not present significant problems for the food industry.

One meat industry trade representative told us that his organization was concerned that if country-of-origin labeling was mandatory, the wording required on the label could have an adverse effect on domestic producers. He cited as an example a meat or food product made of both domestic and imported meats, of which 95 percent of the meat was domestic and 5 percent was imported. Requiring the label to state that the product contained "imported meat" could result in the consumer shying away from purchasing that particular product, thus in the long run economically hurting domestic meat producers.

Another factor related to labeling is the uncertainty of the specific language that would be required. For example, according to some food industry representatives, a requirement that the label simply state "this product may contain imported meat" would be less costly to administer and monitor for compliance than a requirement that the label state the specific amount of imported meat from a specific country or countries. This latter requirement could result in increased cost to the industry. Some of the food industry representatives told us that at various times their companies use different amounts or percentages of imported meat in manufacturing their food products, depending on the cost and amounts of imported and domestic meat available for production. Therefore, in our opinion, it would be easier and less costly to implement and monitor a label for "imported meat" than a label showing the percentage of imported meat used in production.

Possible Trade Issues

Some industry representatives told us that the labeling requirement could possibly be perceived as a trade barrier. CRS also made this point in its September 1985 study on imported meat. CRS stated that a labeling requirement may violate U.S. obligations under Article 3 of the General Agreement on Tariffs and Trade (GATT), which requires imported products to be treated no less favorably than domestic products. The GATT specifically prohibits countries from applying regulations to internal sales that would afford protection to domestic products. According to CRS, labeling could convey the impression that imported meat is not as safe as domestic meat, thus creating a nontariff trade barrier. According to the industry representatives, meat exporting nations could retaliate against the United States by placing certain requirements on our exports.

Legal Issues

State legislation relating to country-of-origin labeling has been struck down by the federal courts as unconstitutionally burdensome upon interstate and foreign commerce. Federal courts that have examined the matter have found significant commercial costs and burdens involved when foreign-origin labeling is required throughout the manufacturing and distribution chain all the way to the product's ultimate consumer.

Our review of cases involving state requirements indicates that they are not applicable to federal action. These cases conclude generally that the states cannot impose such requirements precisely because they impose unreasonable burdens on interstate commerce, the regulation of which is constitutionally reserved for the Congress. The cases also point out that the Commerce Clause, which reserves for the Congress power to regulate foreign trade, prohibits a state from using its regulatory power to protect its citizens from outside competition. However, the Congress can enact protectionist legislation. Thus, a federal labeling statute would not be vulnerable to the objections raised to the state laws.

Conclusions

Country-of-origin labeling for imported meat and meat food products as they move through the food chain has been an area of concern for federal and some state legislative bodies, domestic livestock producers, and food manufacturing companies for many years.

Proponents of the idea, primarily some domestic producers, have emphasized that consumers have a right to know if the meat and meat food products they may purchase contain imported meat and that such

labeling would help consumers make informed choices when buying food.

Some food industry representatives who use imported meat in their businesses, such as brokers, packers, processors, wholesalers, restaurants, food manufacturers, and large chain supermarkets, strongly oppose extending the country-of-origin labeling requirement. In their view, imported meat does not pose health or safety problems because imported meat cannot be introduced into domestic commerce until it passes inspection. Food industry representatives viewed extended country-of-origin labeling to be of no redeeming value or benefit to consumers. In their opinion, consumers are more interested in purchasing a wholesome, quality product at a reasonable cost.

We were unable to find written evidence indicating consumers' overall views on the labeling of imported meats. Although proponents of labeling have stated that consumers have the right to know what is being purchased, we have not been able to find much evidence that would indicate what consumers' reaction would be if they had such information, or whether they would increase or decrease their consumption of meat they knew to be imported.

Compliance with and enforcement of an extended country-of-origin labeling requirement would result in additional expenses for the food industry and the federal government. Increased costs would result for label approval, increased numbers of labels, and segregation of imported meat in inventory as well as during processing. In addition, a requirement that restaurant menus and/or notice changes state the country of origin of all meat items sold in such establishments would increase the consumers' cost of the product purchased. Enforcement costs of USDA and compliance costs to the industry could be substantial. The costs would ultimately be passed on to consumers/taxpayers either through increased costs of food products or increased taxes.

Costs, particularly to the industry, would also be influenced by the language required on food product labels and on restaurant menus. A requirement that labels state that the product may contain imported meats would be less costly than one that requires naming the specific country of origin and possibly the percentage of the contents. The latter requirement would place an additional burden on those segments of the food industry that alter the amount of imported meats in order to meet their established formulas.

In our opinion, insufficient evidence exists that the benefits gained by extending country-of-origin labeling throughout the food chain, including menu notices or signs in those eating establishments that serve imported meat, would justify the cost of implementing, monitoring, and enforcing such a requirement. Accordingly, we do not recommend a change at this time to the labeling requirements on imported meat and meat food products.

Agency Comments

In commenting on a draft of this report, USDA stated that it agrees with our conclusion that insufficient evidence exists that the benefits gained by extending country-of-origin labeling throughout the food chain would justify the cost of implementing, monitoring, and enforcing such a labeling law. USDA stated that the arguments against a country-of-orgin labeling should be more strongly presented. USDA suggested that we point out that meat and meat products are not different from other internationally traded commodities, and that presumably the consumer also has a right to know which parts of a motorcycle or computer have been imported. USDA stated that all imported meat, meat products, and live animals must fully comply with U.S. health and safety standards. Further, USDA said that, since no health and safety issues are involved, the proposed country-of-origin labeling is solely intended to act as a nontariff trade barrier.

USDA also stated that during this period of the Uruguay Round of Multilateral Trade Negotiations, the United States does not want to erect new nontariff trade barriers. Further, it said that passage of a country-of-origin labeling law would raise serious doubts about the U.S. commitment to a freer and more open international agricultural trading system. USDA also indicated that a country-of-origin labeling law would undermine the effectiveness of U.S. efforts to gain international agreement to eliminate market access restrictions and all other government-sponsored practices, which distort trade in agricultural products.

Chairman GIBBONS. I looked over your report and I don't see any reason to argue with you about things, so I don't have any questions.

Mr. Crane?

Mr. CRANE. I just want to get a clarification in my own mind. When a foreign meat product enters the United States, it must contain a label under existing law, right?

Mr. HARMAN. That is correct.

Mr. CRANE. So what we are talking about here is after it clears customs and satisfies requirements that it is decent, edible, what have you, then if it is combined with some domestic product, we no longer require marking that it is *x* percent from Australia, *x* percent from Montana?

Mr. HARMAN. That is correct. The form has substantially changed; therefore it does not have to be labeled.

Mr. CRANE. And the contemplated legislation would require that you keep labeling and to maintain records of the percent of the components?

Mr. HARMAN. It is uncertain how that labeling would be carried out. It could be labeled that it does contain imported meat and not indicate the percentage or it could require that the percentage be indicated.

Of course, there are more problems with wording requiring the percentage than just saying this product contains imported meat.

Mr. CRANE. Is it a widespread practice to substantially transform, say, meat sold in the supermarket with *x* amount from Australia, *x* amount from Canada, from Montana, what have you?

Mr. HARMAN. Most of the meat imported is what they term manufacturing meat, which has a lower content of fat and is mixed or incorporated into other products such as hamburger or sausage to give you the meat that is sold at the supermarket or in TV dinners, stew. Most of that meat, particularly the beef that is imported, is that type of meat.

I think somewhere around 10 percent of imported meat consists of such items as canned ham, which is labeled and the label is carried through the food chain. But again, most of the meat is manufacturing meat that loses its identity as it goes through the food chain.

Mr. CRANE. Do we, and I am in no position to render a qualitative judgment, but do we produce the best meat in the world?

Mr. HARMAN. I don't think we are in a position to answer that. The meat that is produced in this country has a higher content, fat meat sold in the supermarket as table cuts; whereas the imported meat is from grass-fed beef, when you are talking about beef that has a lower content of fat.

Our requirement for hamburger is that it not contain any less than 70 percent lean or more than 30 percent fat. Most of our grain-fed beef contains more fat than that. Therefore, some of this manufactured, leaner meat is mixed with the fatter meat to get your hamburger. Table cuts are by and large domestic.

Mr. CRANE. Why is there a requirement of 70 percent lean and no more than 30 percent fat for hamburger?

Mr. HARMAN. I think that is a requirement—do you know the answer to that? I am not real certain about that, Mr. Crane, what

the genesis of that was. We would have to research that for you and could provide it for the record.

Mr. CRANE. The presumption is we don't want our hamburger overdosed with fat?

Mr. HARMAN. Correct.

Mr. CRANE. Yet we are the ones who are producing the heavy fat content beef?

Mr. HARMAN. You may hear this later in the hearing. The domestic cattle people would argue that they can produce the leaner beef.

Mr. CRANE. Why don't they do that?

Mr. HARMAN. I think that is a question you should ask them. I don't know the answer.

Mr. CRANE. The reason I am curious is, I saw an interesting report on MacDonald's doing business in Japan and ironically they stated in this report that the Japanese like more fat in hamburger than Americans like.

I wonder why we raise so much beef with an excess of fat, especially when there are guidelines? I happen to dislike fat. That is a personal predilection.

When we have guidelines like that on the one hand and foreign markets like it, that is wonderful, if you are raising it for export, but if you are raising it for American consumption, it would be hard to boast, it seems to me, that this is all American beef.

I think the trend to fatter beef started in the 1950s and it is an American taste that evolved over that period of time because the fatter beef in many people's opinion has a richer taste and is more tender. I think our producers were trying to meet that market.

Now the market is changing to some extent with the new health concerns that people have. Whether or not we will be going back to a 75 or an 80 or a 95 percent lean cattle is hard to predict.

Mr. CRANE. Well, I am really puzzled at what the concern would be about the input of, say, foreign components in the chain as long as the product meets our standards coming into our borders.

What is the point? I really don't get the point. You know if a person wants to label something in the supermarket and if in fact our beef is heavier in fat content than any of the imports coming into our borders and Americans like that, then the manufacturer of the hamburger, you would think, would label "this is 100 percent American beef," and it has more fat than anything else you can find on the market.

If that is a plus for selling beef, you sell it that way. Otherwise, you are advertising it as 100 percent lean and we don't have those cows here. I don't understand the rationale behind this proposal to label downstream.

Mr. HARMAN. I think some of the rationale from a consumer standpoint would be a concern about safety. That is what CRS is referring to. Perhaps we have problems.

GAO has uncovered problems with inspection of fruits and vegetables as well as beef in this report we are discussing today. As an office, we believe you should address that problem, not try to address it to the labeling process, which could create more problems, and you are still not assured that that beef is in fact safe. But that,

to us, is the major issue, and I think it is an issue that is not just concerned with beef, it is concerned with fruits and vegetables.

Mr. CRANE. That is a wholly legitimate concern, but after you have certified as to the fact that you are getting a good quality product and it comes in and it is identified with country-of-origin, I don't see what concern that would be to a consumer later on down the line.

Mr. HARMAN. That is our position. We haven't seen anything that consumers are in fact concerned about that.

Mr. CRANE. Thank you for your testimony.

I yield back, Mr. Chairman.

Chairman GIBBONS. Mr. Thomas.

Mr. THOMAS. Thank you.

I have been involved to some degree with labeling and inspection, especially fruits and vegetables. For example, people wonder why they can't get an avocado from Mexico if it is labeled. Because of sanitary problems we don't allow them in.

I apologize for not hearing all your testimony. I have tried to read through that which you have provided.

What checks do we currently perform on imported beef? What countries have we had problems with in the past with growth hormones, various chemical additives?

Mr. HARMAN. The process basically we certify processing plants in foreign countries eligible to export into the United States. FSIS has approximately, I believe, 20 or so inspectors that inspect those plants and do certify them as eligible to export meat to the United States.

Mr. THOMAS. And only those plants that have been inspected can export?

Mr. HARMAN. Can export.

Mr. THOMAS. You have 20 or so inspectors?

Mr. HARMAN. I believe 20.

Ms. KENNEY. The inspection system really reaches beyond the foreign programs officers stationed abroad. There is a requirement that in order to export meat to this country, any country must apply and demonstrate that it has equivalent standards and there is a desk review of its regulations and there is an interdisciplinary team visit by USDA people to that country, and finally, as John said, there are officers stationed abroad who periodically visit the plants and certify them to be equivalent.

Mr. THOMAS. What happened, as I recall, a few years ago, apparently there was some kangaroo meat included in ground beef shipments from Australia. What happened there and what was our follow-up to make sure that it doesn't happen again?

Ms. KENNEY. That was a problem of species identification, not one of chemical residues.

Mr. THOMAS. I think most people don't classify kangaroo meat as beef.

Ms. KENNEY. Yes, that is correct.

Mr. THOMAS. How was the problem corrected?

Mr. HARMAN. I think there was probably a breakdown in that process that would identify kangaroo or horse meat or any type of——

Mr. THOMAS. I understand that. But it was a clear fact that it happened. What have you done to alleviate that problem so we can feel comfortable that imported meat is what it is purported to be? What steps have you taken to make sure the process doesn't break down again?

Mr. HARMAN. That would be a question to ask USDA. We have not done, as far as I know, any follow-up work.

The report referred to today covers more than just labeling, it does get into chemical residue and inspection problems, and there is a lot of room for improvement in that process.

Our position is, how you want to address that kind of a problem. Our position is that you should address it through improving the inspection process, not through requiring labeling. We are not convinced that there is a real need for that.

Mr. THOMAS. When we talk about labeling, it is really talking about products that people don't want to label. I think people are willing to label Norwegian smoked salmon or Canadian bacon; they don't want to label some things because there might be a psychological aversion to it.

We could run a long list of labels—that is voluntary, so it is not so much the fact of labeling; it is the fact that they don't want to label things when they think there might be a negative consumer reaction?

Mr. HARMAN. That is correct. Those products generally carry a higher price when they are being sold. The issue here as far as what our work showed, is that——

Mr. THOMAS. And we inspect all of those items as well, correct?

Mr. HARMAN. Correct. I am not sure how they are imported. Danish hams are imported as Danish hams in cans. If they are taken out of the can and sold in a supermarket delicatessen, then they don't have to be labeled, but many times they are identified as Danish hams.

Mr. THOMAS. What checks do we have to make sure that Danish hams are not Polish hams?

Mr. HARMAN. They are imported and checked when they come into the country.

Mr. THOMAS. How do you check to make sure they are Danish hams as opposed to Polish hams coming through Denmark?

Mr. FINKEL. That is part of the Customs check.

Mr. CRANE. Will you yield?

It is by the taste.

Mr. THOMAS. I was expecting a better one that that.

Mr. HARMAN. I know that Customs has been attempting to tighten up its procedures in this area, and has been taking a more stringent approach to labeling these products, including products that are supposedly changed but they really are not.

Mr. THOMAS. You said 20 or so inspectors. Did any of your studies show that there tend to be periodic violators, that problems occur more frequently with certain countries than with others?

Ms. KENNEY. I should have added that, in addition to the review of laws and regulations and the officers stationed abroad, there is a very active inspection program of all the meat that comes into this country. That is what the bulk of our study concentrated on, chemical residues, and we noted that there was a very active and appar-

ently quite successful program in terms of inspecting imported meat by USDA in this country.

Mr. THOMAS. I appreciate that information. That wasn't my question.

In the inspection, the 20 or so inspectors that you have and the various countries that you are dealing with, do there tend to be problems with certain countries over others or are they uniformly correct; there are not specific instances of problems from particular countries?

Ms. KENNEY. I wouldn't be able to address those current conditions. We have someone here this afternoon——

Mr. THOMAS. Not current. It would be an historical question. If someone would identify to me who might be able to respond to a question of, are all the countries uniformly proper in meeting standards or do some countries tend to be more relaxed than others?

Ms. STOLFA. I am from the Department of Agriculture, the Food Safety and Inspection Service, and I will be glad to address that question.

Mr. THOMAS. You are coming up later?

Ms. STOLFA. Yes, sir.

Mr. THOMAS. Thank you.

Chairman GIBBONS. Mr. Lewis.

Mr. LEWIS. I think it was interesting in your testimony that you said consumers have no interest in what the labor link is, or you could find no interest. I would like to know where you investigated and who you talked to. I talk to consumers, and I find just the opposite.

An article in the Wall Street Journal said the consumer would like to know whether he was getting foreign beef or not. What consumer organization did you investigate and to what depth?

Mr. HARMAN. What I was trying to get across is that we could not identify any kind of research studies, studies that we could feel comfortable with from a scientific research standpoint that showed that consumers had a problem with imported meat. It seemed like their concern was imported meat from the safety aspect. In other words, if they were concerned about imported meat, it was because they were concerned there may be some chemical residue or that sort of thing that was causing a problem with that product.

We did talk to a number of consumers, and maybe Mary can give you the names of people we talked to in terms of the consumer organizations. We talked to the USDA to try to identify studies that we could use from an audit standpoint. We did identify a couple of studies, I believe were done, marketing studies for lamb showed that consumers in certain parts were concerned about the country of origin. But then again we looked at other studies in which where lists were given to consumers about their concerns. In those studies, the labeling issue was toward the bottom and the safety issue towards the top.

So it confuses us a little bit. The basis for our conclusion was given that and given the cost of some of the problems that these other organizations and food processors and manufacturers were raising, we could not reach a conclusion that we should go forward

with country-of-origin labeling at this time. That is essentially what our reasoning was with that chapter of the report.

Mr. LEWIS. So you didn't get into any consumer organizations?

Mr. HARMAN. We talked to some consumer organizations, I believe, trade associations, to try to identify studies. We did not try on our own to do a scientific study of consumer organizations. That could very well—if such a concern were raised and proven in that sort of study, I think it would make us take a second look at our position. You would have to look at the costs associated with this type of situation too, as well as what are the safety implications.

Mr. LEWIS. I notice that you are in your comments directing most of your statements toward inspections and inspection methods and that sort of thing. I will get into this with USDA. There are sovereign countries that do not have inspection methods equivalent to our standards as far as chemicals, pesticides and that sort of thing. It would seem to me that those people that use different chemicals, the people would like to know about this and have a right to know about this, and if you get a blend in meat, here in this country and you are assuming or make a conclusion because it is sold in an American store that it is American beef and you buy it, it may not be what you really want, and I think the consumer has a right to know that.

No one argues about the fact that Hormel puts on a can this is Danish ham because that is a selling factor. I have concerns when people don't know whether they have something else mixed in with the blended meat that they are buying. I think my colleague from California asked this question about the kangaroo meat. It is simple for you to respond, a breakdown in the system. There isn't supposed to be a breakdown in the system. That is why you have an inspection system. So if that was tainted meat, we would have a bit more of a response rather than just a breakdown in the system. You would have an uproar from the American public.

It was bad enough when we had meat coming in that was blended that no one knew about and they found out about it by accident. Hopefully, before this hearing is over, there will be testimony that we may be able to provide you with more information on that.

Mr. HARMAN. I understand your concern, and we have been heavily involved in the last several years in that issue of chemical residue in meat and other products. We currently have an assignment ongoing from Congressman Panetta to look at fruits and vegetables and the inspection systems that exist in foreign countries to assure that fruits and vegetables we are importing into this country are safe, which is of equal concern to the consumer. I don't want to belabor the point.

I think where we were coming from as an office is that we need to tighten up the safety issues. We need to tighten the safety net to avoid getting kangaroo meat into this country. To say that it is imported or not imported would not necessarily solve that problem. We still may get kangaroo meat.

For those people who are not concerned about whether it is imported or not, I think we would still have a problem particularly if it is tainted.

Mr. LEWIS. Thank you. Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you very much, Mr. Harman.

Mr. HARMAN. Thank you, Mr. Chairman.

Chairman GIBBONS. Next we have a panel of administration witnesses, the U.S. Customs Service, Department of Agriculture, the Food and Drug Administration. If they would all come forward, we would appreciate it. First, U.S. Customs Service.

STATEMENT OF WILLIAM D. SLYNE, DIVISION DIRECTOR, REGULATORY TRADE DIVISION, U.S. CUSTOMS SERVICE

Mr. SLYNE. Yes, sir. Mr. Chairman, it is a pleasure for me to appear before you today and discuss the role of the U.S. Customs Service in enforcing country-of-origin marking requirements on meat and other food products. The Customs Service enforces over 400 laws for over 40 different Federal agencies, and the enforcement role of Customs we are discussing here today is another example of the important role we play in regulating the flow of international trade.

One of those laws we enforce, U.S.C. 1304, requires each imported article produced abroad to be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article permits, with the English name of the country of origin, to indicate to the ultimate purchaser in the United States the name of the country in which it was manufactured or produced.

Certain articles require special marking. These include iron or steel pipes and fittings, manhole rings or frames, watches, and clocks. More recently, special marking provisions were required for canned mushrooms and American Indian jewelry by the omnibus trade bill.

Country-of-origin marking requirements do not exist for articles incapable of being marked and for bulk or crude substances.

To protect the integrity of U.S. marking requirements, importers of marked articles which are to be repacked in the United States after release from Customs custody must certify upon entry of their goods into the United States that they will not obscure the marking or that they will accurately mark the repacked container. Should there be another firm doing the repacking, the importer is responsible for advising them of the marking requirements.

These marking requirements of which I speak are distinct from those special requirements required by other Federal agencies. The marking and labeling requirements of food products is the responsibility of the Food and Drug Administration. All such importations are referred to the FDA for inspection and approval for compliance with their requirements. Meat and poultry are similarly referred to the appropriate Agriculture Department officials. We have to rely on the expertise of the Federal agency with primary responsibility.

Mr. Chairman, these are the general guidelines for how the Customs Service carries out its marking responsibilities. I have deliberately kept my statement brief so that you and the other members can get right to the specific questions with which you are concerned. This concludes my formal testimony, and I would be happy to answer your questions.

Chairman GIBBONS. Department of Agriculture.

STATEMENT OF PATRICIA STOLFA, DEPUTY ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. STOLFA. Thank you very much. I am from the Department of Agriculture, the Food Safety and Inspection Service.

I would like to submit my statement for the record and particularly in view of remarks made by other witnesses, as well as other members of the committee, I would like to speak in a general way about what our requirements are and how they operate. I believe if we all have an even level of knowledge, that would be helpful in the discussion.

The United States is a large importer of meat and poultry products. We import approximately 2.5 billion pounds of product a year. In 1987, it was slightly over that, and the product came from 33 different countries. Meat and poultry products imported into the United States may come only from countries that have been determined by the Food Safety and Inspection Service as being eligible to export to the United States, and the operative provisions of both the statutes that we administer are that those countries must have inspection systems that are at least equal to the inspection system in the United States and capable of applying at least equal to requirements in the establishments that are producing for the United States.

We have a rather rigorous process through which a country has to wind its way in order to become eligible. Initially, a country which is not on our list of eligible countries must respond to a set of detailed questionnaires which cover all aspects of animal production and processing as well as all aspects of public health controls applied by the inspection system. If the country submits documents which we review and can consider on paper to be at least equal to the requirements in the United States, we send a multidisciplinary team to view the system in operation. If the system is determined to be, in fact, capable of operating at an at-least-equal-to level, we propose the addition of the country to the list of those eligible through standard notice and comment rulemaking.

Once a country is eligible, the foreign inspection officials have the responsibility of certifying those establishments that meet our requirements and will do so. I should point out that in most countries, only a small number of establishments actually meet our requirements and are so certified on an annual basis.

Once an establishment is certified and begins exporting, two additional sets of controls come into play. Our reviewers, who are in the process of being removed from foreign countries and being placed in Washington, travel to countries on a recurring basis so that we can assure ourselves that the country continues to operate in an at-least-equal-to way in those plants that are exporting to the United States.

In addition, we reinspect product when it arrives in the United States. All product is reinspected to assure that it comes from an eligible country and an eligible establishment. Product is subsequently given further examinations depending on the performance history of the country and the establishment.

As far as our policy and import labeling is concerned, as I think correctly described, we require that country-of-origin labeling be carried through to the consumer level on those products which are imported in the form in which they are sold to the consumer. A substantial amount of product that is imported into the United States is further processed; that is, something is done to it. It is handled in a USDA establishment, and it loses its imported identity after it has passed our reinspection unless it is something like a Danish ham or a can of corned beef from Argentina which comes in the size and in the can in which it is sold to the consumer. When you see this on a shelf, you know immediately that it is corned beef product of Argentina or ham, product of Denmark. That is because it comes in the form in which it is sold to the consumer.

The Department has consistently opposed various suggestions that import labeling should be carried further. We do this because we are essentially a public health agency. We believe that no public health improvements would be added by that further requirement, and that it would be costly and burdensome in a number of ways. So our position has been to oppose such additional labeling requirements.

Thank you.

Chairman GIBBONS. Thank you very much for a very thorough discussion.

[The statement of Patricia Stolfa follows:]

Testimony of
Patricia Stolfa
Deputy Administrator, Food Safety and Inspection Service
U.S. Department of Agriculture

Before the
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
September 27, 1988

Mr. Chairman, I appreciate the opportunity to appear before this Committee to discuss the imported meat and poultry inspection program that is conducted by the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA). I will present an overview of the import program--including the legal requirements on which the program is based, how the program has developed, how it is carried out, changes that have been made over the last few years to strengthen the program, and steps that will be taken to further improve the program. I believe we can demonstrate that the import inspection program is sound and that meat and poultry products in the United States are wholesome, safe, and accurately labeled.

LEGAL AUTHORITY

The FSIS import program is based on the statutory provisions of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). Under these laws, in order to be able to export meat or poultry products to the United States, countries must have inspection programs that have been judged to impose requirements at least equal to those under the provisions of the FMIA and PPIA applicable to domestic meat and poultry products production.

INITIAL ELIGIBILITY

Countries that want to export meat and poultry products to the United States must first make a formal request through diplomatic channels.

To determine eligibility, FSIS conducts a complete evaluation of the country's inspection system. The evaluation consists of two major parts: a review of foreign system documents, and an onsite review of the country's inspection system operations. A country's laws are evaluated to ensure that they provide for inspection and certification of the wholesomeness and proper labeling of product intended for export to the United States; that there are adequate controls over ineligible product to prevent its export; and that the country has adequate controls to prevent a person convicted of wrongdoing from being connected with a firm exporting product to the United States. Documents describing the country's meat or poultry inspection program are also reviewed to ensure that it has the legal authority to impose requirements at least equal to those of the United States in (1) ante-mortem inspection of animals and poultry for slaughter; (2) post-mortem inspection of meat and poultry carcasses and parts thereof at the time of slaughter; (3) official controls by the national government over construction, facilities, and equipment of the establishments; (4) direct and continuous official supervision of slaughter activities and product preparation by the assignment of inspectors to certified establishments to assure that adulterated or misbranded meat and poultry products are not processed or prepared for export to the United States; (5) maintenance of a single standard of inspection and sanitation throughout all certified establishments and complete separation of certified and non-certified establishments; (6) sanitation at official establishments and the sanitary handling of products; (7) official controls over condemned product; and (8) other matters for which requirements are contained in the FMIA, PPIA, or their implementing regulations.

If the document review is satisfactory, a multi-disciplinary team conducts an onsite review to evaluate all aspects of the country's program.

Presently, forty-three countries are eligible to export meat and poultry products to the United States. In 1987, thirty-three of these countries were active and exported 2.6 billion pounds of meat and poultry products to the United States.

CONTINUING OVERSIGHT OF ELIGIBLE COUNTRIES

Once a meat or poultry inspection system of a foreign country has been certified by the Agency as eligible to export products to the United States, the individual plants operating within that country that want to export products to the United States must apply to their national inspection authorities for certification. The responsible official of the foreign country must, in turn, certify to FSIS that each establishment authorized to export to the United States meets all the applicable standards. This certification is valid only as long as standards are maintained and only for a maximum period of one year. At the beginning of each year, a responsible official of the foreign country must recertify each plant.

The daily operation of a certified foreign plant is similar to the operation of a U.S. domestic plant, in which routine daily inspection is conducted by inspectors.

FSIS personnel conduct periodic onsite reviews of foreign inspection systems. The reviews provide continued assurance that the foreign country is maintaining an inspection system that is at least equal to the inspection system of the United States.

REINSPECTION OF IMPORTED PRODUCT

When imported product arrives in the United States, FSIS checks documents on all shipments requiring certification to verify that foreign inspection controls have been applied to each lot. Additionally, FSIS visually inspects each lot of product for appearance, condition, and labeling compliance. FSIS also reinspects product on a sample basis to further assure the continued equal to operation of the foreign inspection system. Reinspection of product is directed by a computerized Automated Import Information System, which stores daily reinspection results from all FSIS port of entry inspection locations, residue and species laboratory sampling histories for each exporting country, and product compliance histories for each exporting plant. The automated system uses this information to determine the intensity and types of reinspection procedures to be applied to a particular shipment. Port of entry reinspection can include testing or examination for any of the following: species verification, residue levels, mishandling of product, condition of product, appropriate labeling, and compliance with USDA standards of composition.

The port of entry reinspection is an additional means to assure that the inspection system of a foreign country exporting to the United States is functioning properly. Any shipment of product found unacceptable is refused entry and the product must be re-exported within a prescribed time period or destroyed or rendered unfit for human food purposes. However, meat products that have been refused entry solely because they are misbranded, may be brought into compliance under the supervision of an authorized representative of FSIS. Reinspection activities occur at 31 major ports of entry around the country.

PROGRAM IMPROVEMENTS

Strengthening our inspection of imported products is a priority commitment at FSIS. The 1981 Farm Bill (the Agriculture and Food Act of 1981) stimulated certain improvements. A 1983 General Accounting Office review suggested others. We believe that systematic changes made over the past several years have significantly improved our programs.

The 1981 Farm Bill amended the FMIA to require that all carcasses, parts of carcasses, meat, and meat food products capable of use as human food that are offered for importation shall be subject to the inspection, sanitation, quality, species verification and residue standards applied to products produced in the United States.

These provisions were fully implemented in 1984 and, as a result, six countries lost their eligibility to export to the United States, largely because they lacked the scientific infrastructure necessary to support a residue control program. Four of those countries have since made the commitment in funds, equipment, and personnel to satisfy the requirements and have regained eligibility.

In 1985, FSIS consolidated all of its import inspection activities into one International Programs unit. The port of entry inspection function was removed from the diverse domestic inspection system and placed in the same organization that was responsible for foreign system reviews. Since that time,

a number of changes have been made to formulate a comprehensive and integrated import program.

* One change was the permanent marking of U.S. refused entry product--not only to keep rejected product out of our own marketing channels, but to notify other foreign countries that the lot was rejected at U.S. ports.

* We have put an end to the practice of permitting imported product to be reinspected at unofficial locations where facilities, equipment, or other controls were substandard.

* Another change has been the elimination of destination inspection, which occurred when imported product was not inspected at the port of entry but instead was shipped to an interior location where inspection was performed by an inspector of domestic product, rather than by an import specialist. However, Canadian product has been granted an extension until 1989, hopefully to coincide with procedural changes possible under a U.S.-Canada Free Trade Agreement.

* We have been a part of the Agency's management improvements in its residue program, and we now directly control the taking of import samples in accordance with an overall FSIS plan.

PLANNED IMPROVEMENTS

And we expect to continue to make improvements in our program. A recent audit of our program by USDA's Office of Inspector General (OIG) found that while the program was generally satisfactory, improvements could be made. Several of those improvements are directed at the movement of imported product within the United States before its presentation to USDA for reinspection. Current policies permit the movement of foreign meat products between ports of entry. Under this system, shipments can travel great distances over extended periods of time between ports of entry prior to import reinspection.

The OIG final audit report, issued in January 1987, recommended that FSIS inspect foreign meat products entering the United States only at the point of arrival. Last May, we proposed a change in meat and poultry inspection regulations to allow imported meat and poultry products to be inspected only at the port where they are unloaded. The comment period was extended through September 22 and we are now analyzing the comments.

We believe that efficiencies are available at consolidated port locations, and that FSIS can commit sufficient resources to ensure that backups and delays are avoided. Nevertheless, we appreciate the potential commercial effects of such a policy. Therefore, we are considering a phase in implementation to avoid disruptions and economic hardship.

1985 FARM BILL (FOOD SECURITY ACT OF 1985)

Other recommendations of the OIG report addressed a difficult public policy issue that is also at the heart of the 1985 Farm Bill--the question of what are appropriate controls on uses of agricultural chemicals that vary around the world.

In late July, we proposed requiring each foreign country offering meat and poultry products for importation into the United States to obtain an annual certification from USDA on the adequacy of its residue control program. U.S. judgment would look far more comprehensively than ever before at all compounds used in a country and the controls applied to them. The comment period on this proposal closed September 26, 1988. However, countries began supplying information in late 1987. We are presently reviewing that data even in advance of finalizing the regulation.

In developing this approach, we were mindful of our responsibility to enhance our meat exports and design controls that do not unduly disrupt trade. The United States is presently engaged in a multi-faceted effort to dissuade the European Economic Community from its hormone ban. The ban jeopardizes annual U.S. exports in excess of $100 million, as it appears we are being required to change our agricultural practices to suit Europe's social policies. Furthermore, the ban violates the General Agreement on Tariffs and Trade (GATT) as it has not been scientifically proven to be necessary to protect human health and it discriminates against U.S. exports in favor of producers in the Common Market. We hope we can change this situation. In designing our own

import policies, we attempt to avoid the heavy-handed approach which has justifiably elicited world-wide criticism of the EEC decision.

IMPORT LABELING

On another matter, I would like to review the USDA's policy and position on the labeling of imported meat and poultry products.

The Federal Meat and Poultry Inspection Regulations require imported meat and poultry products to be labeled by country of origin only if they are sold to consumers in the same form in which they were imported. For example, the labels of imported products such as canned corned beef and canned ham must specify the country of origin. Under the law, USDA does not have the authority to require an imported product to be labeled with the country of origin if the product has been further processed in the United States.

From time to time, proposals have been introduced in the Congress to require labels on all meat and poultry products to bear information on the country of origin, if the products contain meat or poultry from a foreign country. USDA has opposed such legislation because consumers would not be given more protection than they already have under existing law, and such requirements could impede international trade and invite retaliation against the sale of U.S. products in foreign countries.

Further requirements for additional labeling of domestic and imported meat and poultry could result in increased food prices. The cost of thousands of labeling changes would be passed on to consumers. Manufacturers would be required to maintain multiple label inventories, segregate product inventories, and maintain continuous surveillance of domestic and imported meat to ensure a consistent product mix for labeling purposes. Such a requirement would impose a heavy burden on companies, particularly small businesses. In addition, there would be increased cost to the Government. A whole new system would have to be created to track imported meat and poultry after entry into the United States. In brief, we believe that additional labeling requirements would result in increased costs to Government, industry, and consumers.

Mr. Chairman, this concludes my statement on import inspection. I hope the information will be helpful to the committee. I would like to say that we believe our imported meat inspection program gives American consumers a high level of assurance that imported meat and poultry products meet U.S. requirements for safety, wholesomeness, and labeling. We will continue our efforts to improve its efficiency and effectiveness.

Chairman GIBBONS. Food and Drug Administration.

STATEMENT OF RICHARD J. RONK, ACTING DIRECTOR, CENTER FOR FOOD SAFETY AND APPLIED NUTRITION, FOOD AND DRUG ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. RONK. Thank you, Mr. Chairman. As you have pointed out, we are all submitting statements for the record. I would like to make two brief remarks.

The Federal Food, Drug and Cosmetic Act does not require that the labeling of imported foods, or of foods that contain imported foods, or of foods that contain imported ingredients bear the country of origin of that food as part of the principal display panel. The law does, however, prohibit labeling that is false or misleading in any particular. Thus, foods that do bear country-of-origin information on their label must do so accurately.

I think that that succinctly states what FDA's present responsibilities are now. In other words, if you declare a food to be from a particular country or if you declare a domestic product to be from a certain domestic location, that is a material fact which if not truthful can misbrand the product.

So if I would say this is a product of the United States and it is not a product of the United States, that would misbrand the food. Otherwise the country-of-origin labeling is solely the province of the tariff acts and their implementing regulations are enforced by the U.S. Customs Service. As you are aware these laws require that packaged products must be labeled with country of origin for consumers unless customs has determined that the product has been substantially transformed.

That is essentially my statement. We will submit the rest for the record, and we stand ready for your questions. Thank you.

[The statement of Richard J. Ronk follows:]

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

Mr. Chairman:

I am Richard J. Ronk, the Acting Director of the Center for Food Safety and Applied Nutrition, Food and Drug Administration (FDA). I am here to answer questions on FDA's current authority with regard to country-of-origin labeling on imported food products as well as any expanded jurisdiction of FDA in this area. Before addressing any questions you may have, however, I would like to provide the Subcommittee with the following brief overview.

The Federal Food, Drug, and Cosmetic (FD&C) Act does not require that the labeling of imported foods or of foods that contain imported foods or of foods that contain imported ingredients bear the country of origin of that food or of the ingredients. Our law does, however, prohibit labeling that is false or misleading in any particular; thus, foods that do bear country-of-origin information on their labels must do so accurately.

Otherwise, country of origin labeling is solely the province of the Tariff Act of 1930 and its implementing regulations which are enforced by U.S. Customs Service. That law requires that imported packaged products must be labeled with country of origin for consumers. Packaged products that contain some imported ingredients do not necessarily have to state the country of origin of those ingredients if, for example, those ingredients are so processed in the United States as to become substantially transformed into what are considered new and different products. Unpackaged fruits and vegetables require no labeling other than declaration of the common or usual name.

Requiring that additional country-of-origin information relating to ingredients be provided to consumers could prove extremely difficult to enforce as well as to comply with on the part of the industry. Many imported ingredients in processed foods, for example, pass through several corporate entities starting with the importer, through one or more processors, to the final manufacturer or packager. Along the way, those ingredients frequently become commingled with virtually identical ingredients from the United States and other countries. Under these circumstances, determining whether a final packaged product contains imported ingredients from one or more identifiable countries could prove difficult if not impossible without requiring the industry to maintain extremely detailed records and to provide Federal investigators access to those records. Such records presumably would be necessary to trace the interstate pathway of the imported ingredients to the final manufacturer or packager and to determine whether these ingredients were present in each batch of the finished product.

A product containing tomato paste, for example, could contain both imported and American tomatoes in the paste. In order to determine whether the imported tomatoes are present in the paste in significant amounts from one or more identifiable countries in any given manufacturing lot or batch, careful records to that effect would have to be required, maintained, and continuously scrutinized by Federal investigators. Presumably, the ratio of foreign to domestic ingredients could be frequently changing due to seasonal variations and other factors.

Other Federal requirements that might be necessary to enforce a country-of-origin labeling requirement relating to ingredients could prove equally difficult to establish. One likely possibility would be the need to require substantial changes in certain industry practices in order to facilitate Federal inspections. Changes of this nature might involve, for example, physically segregating ingredients at a manufacturing or processing plant by country of origin. We can assume that such additional requirements would have some effect on the cost of the final product to consumers.

The segregation of loose fruits and vegetables in grocery stores by country of origin, including the labeling of those bins that contain foreign-grown produce, raises yet another series of problems. How and whether the enforcement of such a requirement by Federal authorities would be feasible, and at what cost to the taxpayers, is problematic but probably would also involve intensive recordkeeping, scrutiny, and other types of inspection activity as well as potentially expensive changes in business practices. Whether State governments would be willing to assume all or part of the enforcement burden cannot be predicted.

In February of this year, Secretary Bowen wrote to the Conferees considering H.R. 3, the "Omnibus Trade and Competitiveness Act of 1987 opposing section 2176, which would have required FDA to issue regulations for the labeling of food products which are imported or contain a significant amount of imported ingredients to reflect the country of origin of the imported product or ingredients. The Secretary opposed this section for the reasons I have just provided and perhaps more significantly, because it would have mandated a labeling distinction between foods grown in the United States and foods grown abroad that could not be justified on a sound public health basis.

This labeling requirement would have involved the use of scarce public health resources to implement.

Thank you Mr. Chairman, I am available for any questions that you or members of your Subcommittee may have.

Chairman GIBBONS. We have just started a vote over there. Do we have any cases of disease being spread to humans? I know about Florida citrus canker and those related others, but do we have indications of disease being spread by failure to follow a marking all the way through the retailer, to the consumer of meat products?

Do you have or does Food and Drug Administration have, or does Agriculture have any knowledge of any harmful consequences?

Mr. RONK. Occasionally, of course, there is a breakdown in microbiological safety of food products domestically and imported. I suppose there has been recent disease spread through imported cheeses, from Listeria, which is quite a recent problem. We required that all soft cheeses to be imported to the United States be certified to us by the health authorities of those particular countries and that is in effect now and continues to be in effect.

Generally, these are the type of situations that we run into. We had the same Listeria problem in products from this country, too, not soft cheeses but other sorts of situations, so that that can be an issue. When it is, we try very aggressively, either at the foreign location, or domestic location to eliminate that problem.

Ms. STOLFA. In the Food Safety and Inspection Service we keep a record of any consumer complaints effecting either illness or other product complaints that are brought to our attention. We follow up on each of those complaints and regularly report on them.

So that if a consumer believes that he has become ill from eating a meat product, we make an active attempt to secure perhaps the rest of the products or product from another part of the same lot which could be expected to have the same characteristics and attempt to test that product and see if the meat borne products are, in fact, a source of the problem. I believe we would be glad to supply the committee with a year's worth of reports or whatever is convenient, but from my own recollection, and I do read the reports as they come out each week, infrequently do we find meat products to be the source of the problems that they are alleged to be, and even less frequently do we see imported products implicated.

Now, we do have the capacity, of course, to follow up on those things whenever such implications occur.

Chairman GIBBONS. Mr. Crane.

Mr. CRANE. I am still puzzled over the proposal that is under consideration before the committee. If under Food Safety and Inspection Service you have certified that this is not a contaminated product coming into the market, what difference does it make what happens to it after that? I mean, the concern over the safety of the product coming in, I can understand, and if that capability needs beefing up, I can understand, but why in the world would a consumer care one way or the other, except over the one single issue, when there is a component, as I indicated earlier, of Australian beef or Canadian beef in a hamburger.

The question earlier about kangaroo meat, there are laws on the books, are there not, that you could not put kangaroo meat into a hamburger and bill it as or sell it in the supermarket as beef? Do we not have guidelines that prohibit that?

Ms. STOLFA. Certainly.

Mr. CRANE. So you can't mix products that the Americans are unaware of. I was just commenting that I remember a time when they used to call this a blend of the finest American and Turkish tobaccos (indicating a pack of Camel cigarettes). That was considered a real plus to advertise that long before we had any rights.

If a Danish ham achieves a reputation in its own right as being something extra special and advertises it as a Danish ham, people will look for the Danish ham over the American product. As I say, I am puzzled over the nature of the whole discussion. It obviously has nothing to do with food safety. It has only to do with putting a burden on the manufacturer of a product to go through all the elaborate labeling processes which, to the average consumer, are totally irrelevant anyhow, and yet the final product cost has to be increased to the American consumer, as I see it.

Would you disagree with that?

Ms. STOLFA. I think that probably you need to speak to proponents of the bill, the department's position is to not support the bill. I think that there are probably a number of proponents here who are anxious to give you their views on that.

Mr. CRANE. Very good. Thank you.

Mr. THOMAS. We have brief time left before we have to go vote. You indicated 43 countries are eligible, 34 in 1987 currently imported, for example, beef. You have inspections in the particular countries and you require recertification by a responsible person in the given country, and then you inspect once again when it comes into the United States. Are all of those costs borne by the foreign country?

Ms. STOLFA. None of those costs are borne by the foreign country.

Mr. THOMAS. None of those costs, so they are borne by the American taxpayer.

Ms. STOLFA. Yes, sir.

Mr. THOMAS. Do you folks sit there and tell us they don't have a right to know what it is that their money is paying for in terms of foreign beef content in an item. It seems to me this is less a disease question than it is one of consumer information and consumer choice.

You want to make sure they pay for that inspection, but you don't want them to know what it is they are paying for. If someone advertising a ground beef product as 100 percent U.S. beef, which is sometimes so, on what basis can you prove that that is true or not true, based upon what happens to the meat, as you indicated, after it leaves the point of inspection and is ground up with the content?

Ms. STOLFA. After an imported product passes reinspection at ports of entry, it is treated as a domestic product. We do not retain records of its use.

Mr. THOMAS. So someone, in fact, can mislabel, just as someone wants it to be a Danish ham, they want it to be 100 percent beef for advertising purposes, although you spent all of the taxpayers' money to allow foreigners to bring beef into the U.S., the advertiser can still say it is 100 percent U.S. beef and you have no ability after the money has been spent to prove that it is not, is that correct?

Ms. STOLFA. I would say we don't have an interest in that question.

Mr. THOMAS. You have an ability to determine whether or not that is false advertising or labeling.

Ms. STOLFA. Our interest is in the public health standpoint.

Mr. THOMAS. I understand, but the question is do you have the ability to determine whether or not that is a mislabeled product?

Ms. STOLFA. At the present time we do not keep records of the product after it passes USDA's reinspection.

Mr. THOMAS. You don't care, is that correct?

Ms. STOLFA. Yes.

Mr. THOMAS. For the people who pay for it, if there was interest or desire, too bad, yet we face other products when people challenged us to put labels on them, for example, wines and other products, even those not produced with any sulfates whatsoever and the response has been because we want to know what is in it.

So, on the one hand, you have consumer groups saying we require you to do this because we want to know what is in it. It isn't for health or safety reasons. We want to know and the public has a right to know. In this area the public doesn't have a right to know. Its required to pay, but doesn't have a right to know. I think there is a little problem in terms of those positions.

We are not talking about disease. We are talking about right to know.

Mr. CRANE. Would you yield for a second?

Mr. THOMAS. Sure.

Mr. CRANE. I think that the nature of your questions directed to Food Safety and Inspection Services is misdirected. If you feel that——

Mr. THOMAS. I was addressing the question to the panel and anybody who wanted to respond to it.

Mr. CRANE. Their function is to simply guarantee the safety of the food, not whether the labeling process goes down the line——

Mr. THOMAS. My understanding is we had a panel, Customs Service, Department of Agriculture, Food and Drug Administration, and U.S. Trade representatives and it was open to all. We didn't ask questions of each individual member.

If anybody wants to respond, I would appreciate it.

Mr. CRANE. I would question whether that is a mandate that has ever been given to any of the departments or agencies represented here.

Mr. THOMAS. That might be one of the reasons for the bill.

Chairman GIBBONS. Does anybody want to answer your question? Nobody wants to answer your question.

Mr. RONK. From the Food and Drug side, of course, the question about whether or not it is required on the label, is an issue of material fact. If in fact we are petitioned by consumers that this was a significant material fact, we could in fact require its labeling under the Fair Packaging and Labeling Act. No one has done that.

The second thing is, in the case if a product was labeled 100 percent American product, we have had a recent instance where such was not the case, shrimp from the gulf coast the Customs Service and FDA, did take action against those products.

Mr. THOMAS. I am familiar with pistachios from Iran being labeled as California sun pistachios. The Customs Service responded to us because that was mislabeling. I think if you will examine this question, it is largely the same.

Chairman GIBBONS. Well, looks like I am here by myself. I think I will adjourn a while in order to vote and be right back. I do want to ask the USTR a question. You can stick around.

[Recess for a vote.]

Chairman GIBBONS. Okay folks.

I have a couple of questions I want to direct to the USTR representative. I would like to find out, if I can, with respect to all this labeling what kind of obligations do we have under our international agreements on labeling, and are we living up to them, and does this legislation, proposed legislation, exceed them?

Mr. CONDON. Thank you, Mr. Chairman.

I am glad you asked that question. Our obligations under the GATT are precisely as Pat just outlined. The way we are handling meat lines is the way we are supposed to under GATT. Once it enters U.S. commerce it is supposed to be considered like a domestic product. Those are the obligations of the United States and the members of the GATT.

We are required to treat imported products no less favorably than our own domestic products. In that connection we have serious reservations of the GATT consistency of this bill.

Chairman GIBBONS. Is it generally the opinion of the panel that there are not any health problems involved with the present labeling laws?

Mr. CONDON. That is certainly our conclusion.

Chairman GIBBONS. The rest of you feel the same way?

[Affirmative nods.]

Chairman GIBBONS. That is all the questions I have for you right now. Thank you, very much. I appreciate your coming to help.

Next we are going to have a panel consisting of Florida Cattlemen's Association, the American Cowman's Association, the American Meat Institute, Lykes Brothers, and the Florida Tomato Exchange.

STATEMENT OF DAN B. CHILDS, PRESIDENT, FLORIDA CATTLEMEN'S ASSOCIATION, ACCOMPANIED BY THOMAS M. COOK, DIRECTOR, INDUSTRY AFFAIRS, NATIONAL CATTLEMEN'S ASSOCIATION

Chairman GIBBONS. From the Florida Cattlemen's Association we have Don Childs who is the president and an outstanding Floridian, accompanied by Thomas M. Cook, who is director of industry affairs for the National Cattlemen's Association.

So Mr. Childs, we will start with you.

Mr. CHILDS. My name is Dan Childs, I am a cattle rancher from Lake Placid, Florida. I am currently president of the Florida Cattlemen's Association. The FCA has over 4,000 members and represents Florida's cattle producers.

I appreciate the opportunity to be here today to present the views of the Florida Cattlemen's Association on the subject of labeling imported food, in our case, beef. We are especially grateful to

Representative Tom Lewis for his efforts to seek legislation in our behalf. We also appreciate Chairman Chairman Gibbons' willingness to hold these hearings.

The beef cattle industry contributes significantly to the economy of the State of Florida by producing the most beef cows of any State east of the Mississippi River. Florida ranks ninth, in the Nation.

For the most part, the beef industry in Florida consists of cow-calf producers. We produce calves which are mostly shipped to other States for finishing.

Most cash receipts for beef producers in Florida come primarily from our calves and cull cows.

Florida cattle producers are sensitive to imported beef for essentially two reasons: imports are most competitive with our cull cows and grass fed cattle; secondly, they are unloaded at ports of entry in Florida, which means they are in the most direct competition to our Florida produced product.

The FCA believe imports should be labeled, for the consumer, as to their origin; our formal policy position is attached to this statement. We believe the consumer has the right to know the origin of his or her food supply. Current labeling requirements are not adequate because imported beef essentially loses its identity long before it reaches the consumer.

Our policy also addresses the wholesomeness of and production practices of beef produced in other countries. We believe the USDA Food Safety and Inspection Service has the responsibility to assure the safety and wholesomeness of imported beef. We expect imported beef to meet the same inspection requirements as domestically produced beef.

We also want to be assured that imported beef produced in foreign countries is subject to the same controls as beef produced in this country. In other words, we do not want to be importing beef from countries that use drugs and chemicals that have been banned for use here in the United States, particularly for human health reasons.

Wholesomeness and sanitary regulations should not be associated with our desire to have imported meat labeled. These areas should be addressed by our Federal meat inspection system.

U.S. cattle producers are proud of the product we produce. It is the highest quality beef produced in the world. Imported beef is generally understood to be of lower quality.

This beef is usually blended with domestic beef and trimmings and it loses its identity at the processing plant. There are indications that some supplying countries will be exporting more retail and consumer-ready product in the future. If this occurs, it is all the more important to let the consumer be aware of the source of their food supply in order to make his or her choice.

The Florida Cattlemen's Association and NCA are anxious to work with Congressman Lewis, members of the subcommittee and other interested parties to seek acceptable labeling requirement for imported meat. This is an important and serious issue for the members I represent, and I am here today to express their concerns about the lack of adequate labeling of imported beef.

Thank you.

[An attachment to Mr. Childs' statement follows:]

LABELING

Whereas U.S. consumers expect and receive wholesome meat from U.S. domestically-produced livestock; and

Whereas consumers are entitled to know when they are purchasing meat and meat products of foreign origin, also that it meets the same processing, sanitation and inspections standards as domestic beef; and

Whereas, many products have been banned from use in the production of livestock in the U.S. because of human health concerns; Therefore be it

Resolved that products banned from use in the U.S. must not be used to produce imported meat; therefore be it

Resolved that the Florida Cattlemen's Association strongly favors legislation requiring all meat items containing imported meat to be so identified and be plainly labeled as to its origin.

Board of Directors Meeting, *September 11, 1988*

Chairman GIBBONS. Mr. Cook, I understand you have a statement.

Mr. COOK. I do have a statement, Mr. Chairman, but in the interest of time I agreed to come with Mr. Childs. I ask my statement be submitted for the record.

[The statement of Tom Cook follows:]

Testimony on behalf of the

NATIONAL CATTLEMEN'S ASSOCIATION

submitted by

Tom Cook
Director, Industry Affairs
NATIONAL CATTLEMEN'S ASSOCIATION

My name is Tom Cook, I am Director, Industry Affairs for the National Cattlemen's Association. On behalf of the NCA I am here today to present our views on the subject of labeling imported beef. We appreciate this opportunity and commend this subcommittee for conducting this hearing.

The NCA policy is short, simple and to the point:

> Whereas, consumers are entitled to know when they are purchasing meat and meat products of foreign origin;
>
> Therefore be it Resolved, that the National Cattlemen's Association favors legislation requiring all meat imported be plainly labeled to the consumer as to its origin.

Our members have for a long time believed that the consumer should have the right to know where his or her food comes from.

Current laws on labeling are not adequate to satisfy the NCA position. Existing laws allow imported beef to literally lose its' identity as to origin long before it reaches the consumer.

Most imported beef is of a low grade, lean, boneless kind that is blended with our domestic beef and trimmings. Very little of it reaches the consumer in the form in which it is imported. However, there are indications that some exporting countries are planning to ship more "retail ready" and "consumer ready" beef in the future. If this is the case a review of current requirement and interpretations is necessary.

It is important that labeling be addressed at the national level. Several state legislatures have passed laws requiring imported meat to be labeled as imported. However, in virtually every case these laws have either been unenforceable or ruled unconstitutional. Therefore any resolution to the labeling question must be addressed at the national level.

We believe labeling of imported beef is a consumer "right to choose" issue. It may require some changes in the handling and processing of imported beef, but these changes should not be construed as trade barriers.

The NCA also believes that labeling should not be associated to wholesomeness and sanitary questions related to imported beef. The current meat inspection system is responsible for assuring the safety and wholesomeness of imported beef. We expect this to be the case whether or not it is labeled for the consumer.

We have been activists in making sure that our inspection service has the necessary tools to assure that imported meat meets the same inspection requirements as does domestically produced meat.

We continue to monitor our meat inspection system both internationally and domestically, to be sure that the consumer has a safe and wholesome product. We can not afford to lose the consumers' confidence in the food supply over safety issues, domestically or imported.

We recognize that labeling is not a simple issue. However, there is a growing desire by consumers to be better informed about the food they eat. The origin as well as the content should at their disposal.

The NCA looks forward to working with Members of Congress to pursue a fair and equitable labeling system that should satisfy everyone concerned.

The National Cattlemen's Association is the national spokesman for all segments for the beef cattle industry--including cattle breeders, producers and feeders. The NCA represents approximately 230,000 cattlemen. Memberships includes individual members as well as 49 affiliated state cattle associations and 23 national breed associations.

Chairman GIBBONS. American Cowman's Association, Mr. Strain.

STATEMENT OF JAMES R. STRAIN, CHIEF EXECUTIVE OFFICER, AMERICAN COWMAN'S ASSOCIATION

Mr. STRAIN. My name is Jim Strain. I am a beef cattle producer from South Dakota and I am also the chief executive officer of the American Cowman's Association.

The growing awareness among U.S. consumers on the issue of food safety is the reason this association is here today. The Wall Street Journal recently carried a story, in which a poll was cited, that showed that 75 percent of those surveyed considered residues in food to be a serious health hazard. Columnist Marc Grossman, writing on the subject, put it this way: "Food safety would appear to be one of the big issues of the 1990's; polls show that most citizens of the world's industrialized nations think that they face greater risk today than in the past."

Having felt the full effect of consumer reaction to the cholesterol issue, we in the business of beef production are acutely aware of the role public perception plays in the sale of food products and the consuming public; sensitivity to factors involved in diet and it's effect on health. It is that awareness that has prompted us to come before this committee to express our opinion on the matter before us; H.R. 2920, introduced by Mr. Lewis of Florida, an amendment to the Federal Meat Inspection Act (FMIA) that deals with imported meat and meat food product labeling.

In testimony, at a field hearing in Riviera Beach, Florida, March 20, 1987, before the Subcommittee on Livestock, Dairy and Poultry—Committee on Agriculture, U.S. House of Representatives, Patricia Stolfa—Deputy Administrator of the Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture (USDA) presented an overview of the import program—which covered a number of subjects including: Legal Authority, Initial Eligibility, Continuing Oversight of Eligible Countries, Reinspection of Imported Products, Program Improvements, Planned Improvements, and Import Labeling.

As you know, Mr. Chairman, under present law, in order to be able to export meat or poultry products to the United States, countries must have inspection programs that have been judged by FSIS (the administrator of the law) to impose requirements at least equal to those under the acts applicable to domestic meat and poultry products production.

"At least equal to" is obviously the key wordage in the present act. With that in mind, let us now look at an audit of FSIS's program prepared by the USDA's Office of Inspector General (OIG) Audit Report No. 38002-2HY, which was referred to by Ms. Stolfa in her Riviera Beach testimony. On page 1 of that audit, under the subheading "Summary of Audit Results," the second paragraph states that "(1) in two countries we visited, we noted the following: animal drugs not approved for use in the U.S. were routinely used. (2) monitoring of herds suspected of having residue contamination was not sufficient to prohibit entry of animals from herds into export markets, (3) reside sampling plans could not ensure that samples taken were a valid representation of the foreign residue

problems, et cetera". I end the quote in the middle of a sentence because drugs and residues are the key issues we want to bring to light here today. The same report, expanding on the use by exporting countries of drugs banned in the United States, on page 10, under the caption "Residue Contamination (1) Use of Chemicals that were Prohibited or Restricted in the United States." The report cites the common use in Australia and New Zealand, of a drug called Albendazol. This drug was once used in the United States but in 1984 the Food and Drug Administration determined it was carcenogenic and emergency approval was withdrawn January 15, 1985.

Earlier in our remarks we mentioned two popular press print articles that demonstrated public concern over food safety. The U.S. beef production industry presently operates under a mandated production control system that allows the use of certain drugs and compounds, bans the use of others, prescribes withdrawal times, et cetera. Included in the total process of delivering beef products to the marketplace is a rigorous processing inspection procedure carried out by the FSIS. We are comfortable with this total approach and feel that if affords the U.S. consumer the full measure of confidence to which they are entitled.

We do, however, feel strongly that with meat products coming into this country from foreign sources, from animals produced with the aid of drugs which have been banned in this country, from animals which are subject to tolerance levels and withdrawal requirements, more lenient than our own U.S. standards, that every American beef producer is needlessly placed at risk, and an unsuspecting public, confident that governmental watchdog agencies are safeguarding the safety of their food supply are being short changed.

When foreign meat is accepted into this country, it becomes one with the domestically produced product and we believe unfairly so. The processing procedure may be "at least equal to" or sufficiently "equivalent to" to satisfy the requirements of the present act, but the production system in the area of drugs and chemicals may be and is, in the case of the common use of Albendazol—the drug our FDA banned because it was designated carcenogenic—very different, and this is why we believe that present law, though adequate in the past, no longer fulfills the need. Given the high level of consumer sensitivity to drug usage and residue problems, and without some method such as labeling to differentiate them, foreign meat products have the potential to financially ruin the American producer. In addition to the point on banned drug usage just made, an examination of the list of countries eligible and actively shipping meat into this country includes: the Dominican Republic, El Salvador, Guatemala and Honduras. Having personally visited some of these countries, I observed sanitation in general that fell far short of that commonly found in the United States. So I would have to conclude that the meat packing industry in those countries would not be an exception to the conditions generally existing there.

Of all Americans, people like yourself, Mr. Chairman, who operate in the political area, understand the power of the media. Imagine if you will, the effect of one of the major news networks making a story out of the use of a banned, carcenogenic drug in the

production of meat animals. Under the present system, domestic meat producers, totally innocent of any wrongdoing, could face financial ruin.

It was interesting to me that Ms. Stolfa, in her Riviera Beach testimony, spoke of implementing a port inspection change over years to avoid disruptions and economic hardship. This Association today, seeks reasonable change to avoid disruption and economic hardship as well.

Now there is the matter of the practicability and expense of labeling. Ms. Stolfa stated in her testimony that USDA opposed legislation that would mandate labeling, because, in USDA's judgment, consumer would not be given protection beyond that which exits under present law and a requirement for additional labeling could increase food prices and manufacturers would have a heavy burden placed on them for a variety of reasons.

Time does not permit us to rebut USDA's position point by point, but we feel that Donald Kaplan, President of Kaplan Industries, Inc., Barstow, Florida, in a letter to Mr. Dan Wagner, House Committee of Agriculture dated March 16, 1987, makes a number of key points which, combined with his oral testimony given in Riviera Beach, is an excellent rebuttal to the position USDA and others have taken on this matter. We have included Mr. Kaplan's letter as part of our submitted testimony and the transcript of the entire Riviera Beach testimony I am sure has been furnished this committee by the House Agriculture Committee, which will include Mr. Kaplan's oral presentation. Coming from the head of a large private sector firm, that is both a processor and manufacturer of meat products, Mr. Kaplan's statements on the practicability and nominal expense connected with meat labeling should have an added dimension of credibility.

As for the USDA's concern for the cost, even though we believe, as Mr. Kaplan believes that the cost would be insignificant, it is refreshing to hear a governmental agency express concern over money. However, if cost were the only consideration, one could well advance an argument for the elimination of all domestic meat inspection and production control systems for the sake of budget size and lower costs to the consumer. Needless to say, we all recognize the absurdity of such a proposal.

It is our understanding that American Meat Institute is opposed to meat labeling. We would like to make the point that meat packers and processors do not have the risk exposure that producers have. If some portion of the consuming public would back away from meat products because of a real or perceived risk, the processor would not suffer for the simple reason that processors are margin operators. In the case of beef, all that was produced would still be consumer, but the price level would drop appreciably to facilitate movement. This naturally would adversely affect producers, while the processor would escape unscathed.

In the final analysis, we believe that if labeling were required we would see some manufacturers, who presently use domestic meats only occasionally, using imported meats exclusively on a year round basis and labeling accordingly, and the occasional user of imported meat would no doubt go to the exclusive use of domestic products with appropriate labeling and no serious dislocation or

significant cost would accrue to any manufacturer. With labeling, the consumer would have the opportunity to make an informed, intelligent purchasing decision, an option they are today denied, but are rightfully demanding, and we, as domestic producers, would have the security of knowing that the improving reputation of our product would not be placed in jeopardy because of forces beyond our control. This is a right every American businessman is entitled to.

The American Cowman's Association fully supports the concept of free trade, we feel that it is in our best interests both short and long term. We truthfully believe that Mr. Lewis' bill is not protectionist in any sense of the word, it does not contain any provision for tariffs or quotas, nor does it deny access to our market to any qualified exporting country, it provides only for a system of product identification. In concluding, we can only say that the true test of any deal is to put yourself on both sides. We would be pleased to see "Produced and Processed in the U.S." stamped on every beef product shipped out of this country. We are proud of our product, our production system and our processing inspection system, and if our trade representatives do a better job in the future, than they have done in the past, of opening foreign markets to our high quality beef, we can foresee the day when beef products stamped with our label is on grocers' shelves and restaurant menus all over the world.

Mr. Chairman, we thank you for the opportunity to appear before this committee and we are pleased to be a part of the democratic process. I thank you for allowing us here.

Chairman GIBBONS. Thank you.

Now the American Meat Institute, Mr. Welcome.

STATEMENT OF JERRY WELCOME, DIRECTOR OF LEGISLATIVE AFFAIRS, AMERICAN MEAT INSTITUTE

Mr. WELCOME. My name is Jerry Welcome. I am the director of legislative affairs for the American Meat Institute (AMI). AMI is the national trade association representing America's meat packing and processing industry. On behalf of its over 400 members, I am pleased to be here this afternoon to discuss our strong opposition to the additional requirements proposed in H.R. 2920, which seeks to impose new country-of-origin labeling requirements upon our products. I ask that my formal written statement be made a part of the hearing record.

All imported food, including meat, is currently required by Federal law to carry a country-of-origin label. The Federal Meat Inspection Act (FMIA) requires that, in order to be eligible to import meat products in the United States, foreign countries must comply on an equivalent basis with the meat inspection requirements of the Federal Meat Inspection Act and its implementing regulations. Imported meat products must meet rigid health and safety requirements at least equal to those imposed on all U.S. produced meat products. Foreign products must be properly labeled, unadulterated, and wholesome. Only after such foreign product is further processed in American plants by American workers under American inspection does it lose its identify as an imported product.

This will only serve to add cost at the expense of the American food industry and its workers. Such a change will discriminate against U.S. manufactured meat food products versus other foods that may contain additional costs at the time when scarce Federal dollars can be put to better use and at additional consumer expense for no apparent reason.

Labeling can't and should not be taking the place of a strong Federal food inspection program. If there is a legitimate question or concern about the safety or wholesomeness of any imported food or ingredient, I think everybody here would agree that such a product should be kept out of our food supply.

By labeling the country of origin of any given food ingredient we are in now way imparting any useful health, safety, or nutrition information to the consumer.

Meat industry research on consumer preferences has found country-of-origin labeling not to be a consumer issue. And as a matter of fact, in our recent 1987 consumer climate for meat study which AMI conducts jointly with the National Livestock and Meat Board, the consumer decision to buy meat is determined by convenience, taste and economics.

Adding additional cost to our products without adding additional value will simply put us at a further competitive disadvantage in relation to other protein sources available to American consumers.

Meat imports are already subject to an import quota. Just recently, both Australia and New Zealand, our leading suppliers of imported meat, voluntarily agreed to limit their exports to us. If we truly wish to limit the amount of imported meat, we should do so by evoking quota laws, not by using country-of-origin labeling. As the meat industry moves to develop new products to meet consumers' needs and expand overall meat sales, we believe the country-of-origin labeling will work against increasing the consumption of domestically produced meat and lead to lost sales opportunity for meat producers.

The industry, government and consumer costs associated with country-of-origin labeling would be significant. Each label used on a meat product must be reviewed and approved by the U.S. Department of Agriculture's Food Safety and Inspection Service. If H.R. 2920 becomes law under the language of the bill as currently drafted, every label currently in use in the United States would have to be changed. As we read Congressman Lewis bill, even products containing meat ingredients produced totally in the United States would be required to carry the country-of-origin label.

As such, hundreds of thousands of labels would have to be redesigned to suit new requirements, sent to USDA, reviewed to insure compliance, sent back to the processor, and printed. This alone would cost the industry and government tens of millions of dollars.

USDA estimates that all industry costs due to import meat labeling would range between $18.2 to $27.6 million in the first year alone. The on-going compliance cost to federally inspected meat establishments would range between $750,000 to $1.2 million annually. These figures are based on a study done in 1985.

At a time when the Federal budget will no longer allow unlimited growth, every penny being spent by the Food Safety and Inspec-

tion Service should be used to ensure the wholesomeness and safety of the meat supply.

Also, this type of amendment is counterproductive to the U.S. interests in the area of international trade, especially agricultural trade. Labeling requirements will be viewed accurately by trading partners as nothing more than a nontariff barrier.

As the meat industry continues to reach out and expand meat sales abroad exposing ourselves to charges of creating barriers to our own markets, it seems counterproductive to say the least. The United States successfully negotiated a liberalization of the beef trade with Japan. We hope to continue to build on this success and push into other closed markets in the Pacific rim.

The EEC has proposed a ban on all U.S. produced beef because of the use of hormones in the production of our cattle. This ban is scientifically unjustified and we will vigorously fight to keep this market open. We cannot and should not promote legislation that can be used against us in the world marketplace.

Country-of-origin labeling will be expensive, counter productive, and anti-competitive, and anti-consumer.

This concludes my statement. Thank you, Mr. Chairman.

[The statement of Jerry Welcome follows:]

TESTIMONY OF

JERRY WELCOME, DIRECTOR
LEGISLATIVE AFFAIRS
AMERICAN MEAT INSTITUTE

Good afternoon Mr. Chairman. My name is Jerry Welcome and I am the Director of Legislative Affairs for the American Meat Institute (AMI). AMI is the national trade association representing America's meat packing and processing industry. On behalf of its over 400 members, I am pleased to be here this afternoon to discuss our strong opposition to the additional requirements proposed in H.R. 2920, which seeks to impose new country-of-origin labeling requirements upon our products. I ask that my formal written statement be made a part of the hearing record.

All imported food, including meat, is currently required by Federal law to carry a country-of-origin label. The Federal Meat Inspection Act (FMIA) requires that, in order to be eligible to import meat products into the United States, foreign countries must comply on an equivalent basis with the meat inspection requirements of the Federal Meat Inspection Act and its implementing regulations. Imported meat products must meet rigid health and safety requirements at least equal to those imposed on all U.S. produced meat products. Foreign products must be properly labeled, unadulterated and wholesome.

The FMIA specifically requires that imported products bear country-of-origin labeling. Section 20(a) of the FMIA, 21 U.S.C. Section 620(a), provides that all imported meat and meat food products "shall be marked and labeled as required by such regulations for imported articles." USDA regulations provide:

> (a) Product offered for importation which is capable of marking, shall, whether or not enclosed in an immediate container, bear the name of the country-of-origin, preceded by the words "product of..."
>
> (b) In addition to the marking of products required under paragraph (a) of this section, the immediate container of any product offered for importation: (1) shall bear a label showing ...the name of the origin preceded by the words "Product of ..." 9 C.F.R. Section 327.14.

Only after such foreign product is further processed in American plants by American workers under American inspection, does it lose its identity as an imported product. It is AMI's view that abandoning this long-standing policy will only serve to add costs to manufactured food products at the expense of the American food industry and its workers. Such a change will also discriminate against U.S. manufactured meat food products versus other foods that may contain imported raw ingredients, add additional government costs at a time when scarce federal dollars could be put to better use, and finally, add additional consumer expense for no apparent reason.

Quite frankly, it is not entirely clear what this type of labeling information will accomplish other than to discourage the use of imported products. Labeling cannot, and should not, take the place of a strong federal food inspection program. If there is a legitimate question or concern about the safety or wholesomeness of any imported food or ingredient, I think everyone here would agree that such a product should be kept out of our food supply.

If, however, these products can measure up to the health and safety standards set out under U.S. law, there is or no point in requiring that country-of-origin information be contained on the label. By labeling the country-of-origin of any given food ingredient we are in no way imparting any useful health, safety or nutrition information to the consumer.

As stated earlier, proponents most often cite the rights of consumers to know the country-of-origin of their foods. Through the 1985 Food Security Act, Congress asked the General Accounting Office to do a study of the feasibility of requiring that all imported meat and meat food products containing imported ingredients be labeled as to country-of-origin. On September 30, 1987 the GAO report entitled Imported Meat and Livestock Chemical

Residue Detection and the Issue of Labeling stated:

> We were unable to find written evidence indicating consumers' overall views on the labeling of imported meats. Although proponents of labeling have stated that consumers have the right to know what is being purchased, we have not been able to find much evidence that would indicate what consumers' reaction would be if they had such information, or whether they would increase or decrease their consumption of meat they knew to be imported.

Meat industry research on consumer preferences and behavior has not found country-of-origin labeling to be a consumer issue or a factor having impact upon consumer preference in purchasing meat products. According to the 1987 Consumer Climate for Meat Study conducted jointly by AMI and the National Livestock and Meat Board, the decision to serve meat is determined by convenience, taste and economics. Along these lines, it is worth noting that this legislation has not gathered any discernible support from any consumer interests.

Adding additional costs to our products through this legislation without adding any additional value will simply put us at a further competitive disadvantage in relation to other protein sources available to the American consumer.

Meat imports in 1987 were equivalent to 9.1 percent of our domestic production, an increase of less than 1/2 a percentage point over 1986. More than half of meat imports are used, often in conjunction with domestic meat, as raw material for manufactured meat products. Since 1977, total imports of meat as a percent of U.S. production has only grown by 2 percentage points. To illustrate a point, in 1987, of all the manufacturing grade beef available for use in meat food products and hamburger (8.4 billion lbs. net retail weight) 82 percent came from domestic sources, 18 percent is imported beef.

This small amount of imported meat does not threaten the existence or profitability of the domestic livestock producers. It also should be noted that meat imports are already subject to an import quota. Just recently both Australia and New Zealand, our leading leading suppliers of imported meat, have voluntarily agreed to limit their exports to the U.S. If the true goal of this legislation is to limit the amount of imported meat that makes its way into domestic manufactured meat food products, we should do so by invoking the import quota law not by using country-of-origin labeling.

As the meat industry moves to develop new products to meet consumer needs and expand overall meat sales, we believe that country-of-origin labeling will actually work against increasing the consumption of domestically produced meat and lead to lost sales opportunity for meat produces. This is primarily due to the fact that the vast majority of imported beef brought into this country is blended with trimmings from U.S. cattle. The loss of this market will have a detrimental effect on the whole carcass price paid producers by packers as the market for trimmings is effected by the availability of lean grade meat to mix it with.

The industry, government and consumer costs associated with a country-of-origin labeling requirement would be significant. Each label used on a meat food product must be reviewed and approved by the U.S. Department of Agriculture's Food Safety and Inspection Service. If H.R. 2920, becomes law, under the language of his bill as currently drafted, every label currently in use in the U.S. would have to be changed. As we read Congressman Lewis' bill, even product containing meat ingredients produced totally in the U.S. would be required to carry the country-of-origin label.

As such, hundreds of thousands of labels would have to be redesigned to suit the new requirements, sent to USDA, reviewed to insure compliance, sent back to the processor, and then printed. This alone will cost the industry and government tens

to insure compliance, sent back to the processor, and then printed. This alone will cost the industry and government tens of millions of dollars.

According to meat industry analysts, in 1985, between 1500 to 2400 federally inspected meat processing plants bought and used imported meat. USDA estimates that all industry costs due to imported meat labeling would range from $18.2 to $27.6 million in the first year alone. The ongoing compliance cost to federally inspected meat establishments would range from $750,000 to $1.2 million annually (these figures are based on analysis done in 1985; today the figure would be considerably higher).

At a time when the federal budget will no longer allow unlimited growth, every penny being spent by the Food Safety Inspection Service should be used to insure the wholesomeness and safety of the meat supply. To allocate inspectors time to insure that the proper label is being used on each and every meat food product being manufactured in a given facility will obviously effect the amount of time available to that inspector to insure wholesome product.

Finally Mr. Chairman, in the area of this Committee's principal concern and expertise, AMI feels this type of amendment is counter-productive to the U.S. interest in the area of international trade, especially agricultural trade.

Country-of-origin labeling will be viewed quite accurately by our trading partners as nothing more than a nontariff trade barrier. I think we have clearly shown there is no real need or benefit for the American consumer by providing country-of-origin labeling, and there is clearly no cost benefit to the government or the industry. As the meat industry continues to reach out and expand meat sales abroad, exposing ourselves to charges of creating barriers to our own markets seem counterproductive to say the least.

This year alone, the U.S. has successfully negotiated a liberalization of beef trade with Japan. We hope to continue to build on this success and push into other closed markets in the Pacific rim. The EEC has proposed a ban on all U.S. produced beef because of the use of hormones in the production of our cattle. This ban is scientifically unjustified, and we will vigorously fight to keep this market open. We cannot and should not promote legislation that can be used against us in the world marketplace.

In closing Mr. Chairman, country-of-origin labeling will be expensive, counterproductive, anticompetitive, anticonsumer, and will lead to greater government involvement in the private sector and in the marketplace. It will not lead to the opening of one single market overseas, and it will add costs to American consumers.

Finally, it will ultimately hurt the very proponents of the measure. Because our industry traditionally has a very thin margin of profit there is little we can do but to pass the increased costs of a product either forward to the consumer or backward to the producer. As consumers balk at rising costs of meat products, producers inevitably will have to help bear these additional costs.

Mr. Chairman that concludes my statement, if there are any questions I will be happy to answer them. Thank you for giving AMI this opportunity to testify on this significant issue.

Chairman GIBBONS. We have two fellows so far apart sitting so close to each other.

STATEMENT OF TOM L. RANKIN, PRESIDENT AND CHIEF OPERATING OFFICER, LYKES BROS., INC., AND PRESIDENT AND CHIEF EXECUTIVE OFFICER, LYKES PASCO, INC., AS PRESENTED BY DAVID H. KNAPP, VICE PRESIDENT OF DIRECTORS FOR LYKES BROS., INC., TAMPA AND DIRECTOR OF LYKES PASCO, DADE CITY, FLA, ACCOMPANIED BY PAUL C. ROSENTHAL, COUNSEL

Chairman GIBBONS. Lykes Brothers. David Knapp.

Mr. KNAPP. I am David Knapp, vice president of directors of Lykes, Brothers, Inc., Tampa and director of Lykes Pasco, Dade City, Florida. I am appearing in place of Tom Rankin, originally scheduled to be here, but could not be present.

I appreciate the opportunity to testify in behalf of our companies. Accompanying me is Paul Rosenthal, our Washington counsel.

Lykes Pasco is one of the largest juice producers in the United States. Lykes Pasco processes juice for distribution under private labels to supermarkets across the country. Although we sell to institutions such as hospitals and restaurants, we are primarily a packer or private label juices which means we have a vast system of packaging. Among the juices we process are orange, apple, and pineapple. Lykes Brothers and Lykes Pasco, also own and manage over 15,000 acres of planted citrus groves in Florida and are developing several thousand acres of new groves.

Juice processing is only one portion of our operations that would be subject to the country-of-origin marking requirements. Lykes Bros. is also one of the largest meat processors in the Southeast region of the United States and is the largest in Florida. To make our luncheon meats, frankfurters, sausages and other items, we import hams and boneless beef as well as use domestic products. As a percentage of the total, raw material used in all of our processed meats, the ham and boneless beef imports amount to 2½ to 5 percent. Lykes Bros. is the second largest ranching operation in Florida with 25,000 head of cattle at our Florida ranch and another 20,000 head of feeder cattle in Texas. It is from this perspective that I would like to comment concerning the adequacy of current Federal statutes requiring Federal labeling and the need, if any, for further reforms.

My first comment concerns pending legislation such as Congressman Lewis' bill, H.R. 2920. We strongly oppose this bill and any similar legislation that in effect requires country-of-origin marking of ingredients without concern for when the final product meets the traditional substantial transformation test that is applied under the U.S. country-of-origin marking statute.

Under present law, our meat products containing imported meats need not have country-of-origin marking because our U.S. processing operations clearly effect a substantial transformation of the imported products into new products that have a new name, character and use. H.R. 2920 would ignore this long-standing rule of law and require country-of-origin marking even though the imported merchandise is made into products in the United States.

Put into context, its equivalent in the U.S. auto industry would require General Motors to place a plaque on the outside of every car containing an imported part indicating the country of origin of each part.

GM is not required to label cars because of the substantial transportation test; and meat products should be placed under no greater burden. This is contrary to the way country-of-origin marking requirements have been determined over many, many years and would single out meat products to be treated differently from all other merchandise.

H.R. 2920 would impose a significant financial burden on the U.S. meat processing industry. We have estimated, for example, that to change all the labels and packaging for our affected meat products would involve an initial cost of at least $300,000. For each existing label we would need to create three additional labels to correctly identify the source of imported ingredients.

Our present inventory of 350 labels and printed film would increase to 1,050 types. The present inventory of labels and printed film are displayed for your information in exhibits I have brought with me. Our cost would increase further whenever we must print new labels and film, including changes unrelated to country-of-origin markings such as a change in the product. This cost would double. Other costs involve inventory carrying charges for supplies of $90,000 to $100,000 per year, an additional holding estimated at $250,000 per year.

The loss in production time caused by shifting from one set of labels to another as sources change is another cost which we can't readily estimate, but would be substantial. Although we seriously object to H.R. 2920's proposal that ingredients be labeled without concern for whether substantial transportation formation takes place, the manner in which it proposes marking is nevertheless more reasonable and in line with commercial reality than the means by which the U.S. Customs Service has attempted to enforce the country-of-origin statute respecting other food products such as fruit juices. H.R. 2920 would require containers to bear the name of the country of origin if the imported meat is from just one foreign country, but if the imported meat is from more than one foreign source, the container would be labeled as containing imported meat or an imported meat food product generally. We suggest that a more sensible method would be to simply mark the containers containing an imported component even in those instances in which the importer is from just one source.

This would permit food processors to use one single standardized label and still satisfy the underlying purpose of the marking statute.

The ability to mark the container to indicate generally that it contains imported meat or meat food products is less burdensome than the requirement that the container identify each source of ingredients in the particular container, as Customs has proposed recently concerning fruit juices.

In 1987 Customs required the U.S. orange juice industry to mark the country of origin of imported concentrate on all retail packages. This exercise was extremely costly and time-consuming for the juice processing and packaging industries. I have brought with

me samples of most of the new labeling of packaging we have had to create to comply with this requirement. The samples are displayed on the table and on the easel.

More recently, Customs proposed to require actual supplier country-of-origin marking on all retail containers of fruit juices under which all fruit juices made from concentrate would have to be labeled to indicate all actual sources of imported concentrate. We have identified in our written statement many reasons why Customs' proposal is unjustified and unreasonable, but to be more brief here I would emphasize that one of the primary flaws of the proposal is that it fails to consider the purpose of the marking statute and the nature of the industry to which this rule would be applied. Congressman Lewis' bill and similar legislation also suffer from this defect, because of the unique circumstances in which food processors are placed by the nature of their sourcing.

We ask that the subcommittee consider acting to ensure that a more reasoned balanced approach to country-of-origin marking is used with respect to food products.

The approach we propose would retain the present scheme in which food products would not need to be marked to indicate the presence of imported inputs when the imported input is determined by Customs not to have undergone substantial transformation.

In cases where marking is required, however, we believe the marking statute could faithfully be carried out by permitting a statement on the product to the effect that it contains an imported input such as "contains imported concentrate" in the case of a fruit juice product. This approach would satisfy the purpose of the marking statute. That is to inform the purchaser that the product is not a U.S. product and allow him or her to buy American if he or she so chooses.

It would also allow food processors to implement the marking requirement in a reasonable manner. It would allow us to use a single standardized label on food products containing imported components and reduced the cost of compliance significantly. This proposal would also minimize interference with processors decisions and thereby avoid present concerns about the trade distorting effects of the marking statute.

We hope that the subcommittee will give serious consideration to our proposal. Mr. Rosenthal and I will be happy to answer your questions and we thank you, sir.

[The statement of Tom L. Rankin follows:]

TESTIMONY OF

TOM L. RANKIN

PRESIDENT AND CHIEF OPERATING OFFICER,

LYKES BROS., INC. AND

PRESIDENT AND CHIEF EXECUTIVE OFFICER,

LYKES PASCO, INC.

Mr. Chairman and Members of the Subcommittee:

I am Tom L. Rankin, President and Chief Operating Officer of Lykes Bros., Inc. and President and Chief Executive Officer of Lykes Pasco, Inc. I appreciate the opportunity to testify today on behalf of these companies. Accompanying me is Paul Rosenthal, our Washington counsel.

I understand that the purpose of this hearing is to consider the adequacy of current federal statutes requiring food labeling, and the need, if any, for further reforms. In addition, you requested comments on whether labels should identify the country of origin of food ingredients as well as final products. Finally, you are concerned with the international trade implications of labeling requirements, including the consistency of proposals with U.S. international trade obligations such as the General Agreement on Tariffs and Trade. I believe that my testimony today will be of interest to the subcommittee, as Lykes Bros. and Lykes Pasco are uniquely situated to address these issues as U.S. producers of raw agricultural products, importers of agricultural and processed foods, and processors of food products for retail sale.

As you may know, Lykes Pasco is one of the largest juice processors in the United States, and processes juice for distribution under private labels to supermarkets across the country. Although we sell to institutions such as hospitals and restaurants, we are primarily a packer of private label juices, which means that we have a vast system of packaging. Among the juices we process are orange, apple, and pineapple. Lykes Bros. and Lykes Pasco also own and manage over 15,000 acres of planted citrus groves in Florida and are developing several thousand acres of new orange groves. Our grove acreage is currently one of the largest holdings in the State of Florida.

Juice processing is only one portion of our operations that are potentially subject to country-of-origin marking requirements. Lykes Bros. is also one of the largest meat processors in the southeast region of the United States, and is the largest in all of Florida. To make our luncheon meats, franks, sausage and other delicatessen items, we import hams from Poland, Denmark, and The Netherlands, and boneless beef from Costa Rica, Guatemala, and Honduras as well as use domestic products. We also produce sliced bacon and smoked meats, but those products are entirely of U.S. origin. As a percentage of the total raw material used in all of our processed meats, the ham and boneless beef imports amount to 2-1/2 to 5 percent. Lykes Bros. is the second-largest ranching operation in Florida, and is in the top 5 percent of cattle raisers in the United States, with 25,000 head of cattle at our Florida ranch and another 20,000 head of feeder cattle in Texas.

As producers of raw agricultural products, importers of agricultural and processed foods, and processors of food products for retail sale, Lykes Bros. and Lykes Pasco are faced with a variety of concerns. As producers of raw agricultural products, we want to be able to sell all of our produce at a fair return, and are continually aware of the added competition that imported products can create in our markets. As processors of food products for retail sale, however, we also see the obvious benefits of the availability of imports, which are necessary to our operations because of seasonality, quality, and price considerations to better serve the consuming public.

It is from this perspective that I would like to comment on two types of proposals concerning the adequacy of current federal statutes requiring food labeling, and the need if any for further reforms. The first is pending legislation, such as Congressman Lewis' bill, H.R. 2920, which would require that meat and meat food products be labeled to indicate the country of origin of any imported meat therein, even if the imported meat or food product has been further processed after entering the United States.

We strongly oppose H.R. 2920 and any similar legislation that in effect requires country-of-origin marking of ingredients, without concern for whether the final product meets the traditional "substantial transformation" test applied under the U.S. country-of-origin marking statute. Under the statute, a retail product need not be marked with the country of origin of an imported input if, through U.S. manufacturing or processing operations, the imported input product is "substantially transformed." Under present law, the meat products we produce need not be marked to show the country of origin of the imported meats used in those products, because our U.S. processing operations clearly effect a "substantial transformation" of the imported products into new products that have a new name, character, and use.

Congressman Lewis' proposal would ignore this longstanding rule of country-of-origin law and require our products to be marked with the country of origin of imported meat ingredients notwithstanding that the imported merchandise is made into entirely new products in the United States. To put this proposal in context, its equivalent in the U.S. auto industry would be to require General Motors to place a placard on the outside of every car containing an imported part, indicating the country of origin of each part. The auto industry is not required to label cars in this manner because of the "substantial transformation" test, and meat products should be placed under no greater burden.

This type of proposal not only is contrary to the manner in which country-of-origin marking requirements have been determined over many, many years, and would treat meat products differently from all other merchandise, but it would impose a significant financial burden on the U.S. meat processing industry. The increased costs of compliance would, in turn, necessarily be passed on to U.S. consumers. In short, whatever perceived benefits this marking requirement might have are many times outweighed by the cost the consumer would bear.

We have estimated, for example, that to change all the labels and printed film packaging for our affected meat products would involve an initial cost of at least $300,000. We would need to create at least three new labels for each existing label in order to correctly identify the source of imported ingredients in our meat products. We presently carry in inventory at least 350 labels and printed film for the meat products concerned. Further, because the number of labels or printed film would increase four times over present levels, any subsequent change in labels or printed film — including changes unrelated to country-of-origin marking such as a change in the product's net weight — would increase our cost of making such changes. We estimate that the additional number of labels and printed film would double our present cost of making these changes. Other costs would be incurred as well: the estimated inventory carrying cost of supplies, based on a standard 10 percent rate, would be $90,000 to $100,000 per year in addition to present costs. The additional space for holding inventory is estimated at $250,000. Another cost, which we have not been able to estimate but is nonetheless substantial, is the loss in production time caused by shifting from one set of labels or packaging to another as the source of imported ingredients shifts.

We sincerely hope that the Subcommittee will fully consider the implications of H.R. 2920 and similar legislation and determine that the proposed marking requirement is unnecessary and unfair, unreasonably burdens U.S. processors, and increases consumer costs without any corresponding benefit.

Our second concern is a more general one, which relates to whether and how the country-of-origin marking statute is applied to food products as opposed to other products such as industrial goods. Congressman Lewis' proposal, as well as the so-called "Exon Amendment" to the Senate version of the omnibus trade bill, are examples of recent efforts to expand the scope of the country-of-origin marking statute in increasingly pervasive ways. The Exon Amendment would have required country-of-origin marking of meat and other food products if imported ingredients were a significant amount of the total product contents.

In addition to such legislative efforts to revise the country-of-origin marking law, the U.S. Customs Service has over the past few years become increasingly more aggressive in applying the marking requirements to food products. In 1987, Customs required the U.S. orange juice industry to mark the country of origin of imported concentrate on all retail packages. This exercise was extremely costly and time consuming for the juice processing and packaging industries. More recently, Customs has proposed "actual supplier" country-of-origin marking on all retail containers of fruit juices. Specifically, Customs proposed on June 7 of this year to eliminate "major supplier marking," a practice that has been used by this company and other processors of orange juice products since we were first required to comply with country-of-origin marking of such products in February 1987. Customs has proposed to apply, instead, an "actual supplier marking" rule, under which all fruit juices made from concentrate would have to be labeled to indicate all actual sources of imported concentrate contained in each particular package of juice.

In addition, in describing this proposal, Customs has interpreted the term "major supplier marking" in a manner inconsistent with the actual practice that Customs has permitted and that has been followed for the past two years by the juice processing industry. This reinterpretation of the "major supplier marking" rule would, in effect, give many U.S. processors of juice products -- especially apple juice -- no practical alternative to "actual supplier marking." We believe that neither the "actual supplier marking" rule nor the newly-interpreted "major supplier marking" rule gives the industry a reasonable method of compliance with the country-of-origin marking statute. On the other hand, the "major supplier marking" rule originally developed for orange juice does give us and other juice processors a reasonable means of compliance. We have urged Customs, therefore, to retain the original "major supplier marking" rule, and to extend its application to all other fruit juice products.

Customs has suggested in support of its proposal that "actual supplier marking" is needed because "major supplier marking" may not give adequate information to apple juice consumers because of the wide variety of sources and the frequency of changes in those sources, and because of alleged public health concerns. Customs has implied that, by giving consumers an exact listing of all source countries of the imported concentrate in a particular package of juice, the consumer will benefit from being enabled to inspect the country listing and determine for him or herself whether the package contains pesticides that the United States does not permit to be used on domestic fruit crops.

Lykes Bros. and Lykes Pasco share Customs' concerns about the safety of food products, and we certainly have a significant stake in maintaining consumer confidence in our juice products. Nevertheless, we believe that Customs' proposal is not justified by these health concerns. The U.S. Food and Drug Administration already has programs in place by which it monitors and inspects fresh produce and processed food products entering the United States from foreign countries, and can block these imports at the border when they are found to violate U.S.-prescribed contamination limits. A provision in the recently enacted Omnibus Trade and Competitiveness Act bolsters the FDA's existing authority in this area.

Significantly, the FDA itself has said in its written comments on Customs' proposal that Customs' allegation that this rule is needed to help the agency trace pesticide residues is "unfounded," because listing the country of origin on retail packages will not assist it in its monitoring and enforcement of pesticide residues, which focuses entirely on catching contaminated products at the border, before they enter the stream of commerce. The FDA has also challenged Customs' allegation that the United States has a pesticide residue problem in imported foods, saying this is simply not supported by its data. Indeed, the research that has been done on this issue has found that the situation is quite to the contrary. In 1986 the General Accounting Office corroborated an FDA report that in a two-month sampling of all imports of apple juice concentrate most of the samples contained no detectable pesticide residue levels, and the few residues detected were well within FDA limits.

Not only is "actual supplier marking" of no conceivable value in food safety enforcement, but it would impose an unreasonable financial burden upon the U.S. juice processing industry and ultimately hurt U.S. consumers, to whom increased compliance costs would necessarily pass. Lykes Pasco, for example, manufactures orange juice for 95 different brands throughout the United States and uses seven different types of containers. Our inventory for orange juice alone includes separate size labels and containers for frozen concentrated orange juice, chilled ready-to-serve, and canned ready-to-serve orange juice from concentrate; country-of-origin marking requirements affect a total of 357 different containers of orange juice from concentrate marketed by Lykes Pasco. "Actual

supplier marking" would require us to purchase and maintain inventories of labels or other packaging containing statements of every anticipated processing pattern. For example, one week we may include concentrate from Brazil in our finished product. The next week we may obtain concentrate from Mexico or Belize. Customs' proposal -- and certain legislative proposals -- would require us to have separate labels for each possible sourcing situation. Because there are six conceivable blends of orange juice concentrate, based on our current sourcing pattern, "actual supplier marking" would require 2,142 different labels for orange juice. This, of course, does not even take into account the amount required for actual packaging inventories, which are typically maintained at six months' to one year's supplies. The cost of storing such inventories of packaging and labeling alone would be crippling.

The costs to the industry are not limited, moreover, to the expense of preparing and maintaining labeling; in order to accurately mark a container as to its contents, Lykes Pasco would have to institute elaborate inventory, monitoring, and recordkeeping practices for its processing system. The cost of creating such a system would, for most juice processors, be exceedingly high. For Lykes Pasco, because of the extensive number of private label brands we package juice for, this cost would amount to millions of dollars.

We are also very concerned about the effect such a proposal may have on U.S. international trade relations. The U.S. juice processing industry manufactures its products with a variety of domestic and foreign concentrates. To maintain a consistent formula, these sources necessarily change during the year depending upon quality and seasonality. Some U.S. processors would only be able to comply with the "actual supplier marking" requirement by limiting the number of countries from which they obtain their concentrates. If processors are forced to limit their sources of foreign concentrate as a result of the "actual supplier marking" requirement, this action arguably would constitute a nontariff trade barrier in violation of the General Agreement on Tariffs and Trade ("GATT").

It is particularly ironic, moreover, that during the negotiations on the Beef and Citrus Agreement the United States had to contend with and sharply protested the "health and safety hysteria" created by the Japanese in an effort to maintain their quotas on imported foodstuffs. Because Customs' proposal cannot be justified on health and safety grounds, it not only leaves the United States vulnerable to a challenge within the GATT, but weakens our government's credibility in its ongoing efforts to reduce other nontariff barriers to trade by what may be perceived by our trading partners as hypocritical actions.

The current administrative and legislative proposals reflect a trend in marking requirements for food products that would be increasingly more burdensome on processors and costly for consumers, with little consideration being given to the underlying purposes of the marking statute. As this Subcommittee is well aware, the principal purpose of the marking statute is to mark the goods so that at the time of purchase the ultimate purchaser will know where the goods were produced and be in a position to "buy American," if that is his or her choice. When it enacted the marking statute, Congress recognized that many consumers prefer merchandise produced in this country and sought to confer an advantage on domestic producers of competing goods. But the statute was enacted during the last century, when U.S. import trade was only a small fraction of what it is today, and when the U.S. food processing industries, in particular, were unable, because of transportation and other practical barriers, to engage in worldwide sourcing of agricultural commodities in order to maximize price, quality, and supply advantages. The world today is a very different place, and food processing is truly a global industry. The practical problems that a strict application of the country-of-origin marking statute pose for such industries that, like ours, "shop the world" on literally a daily basis need to be carefully considered by Congress and Customs if the original intent of the statute is to be effectuated in a reasonable manner.

In this connection, it is important to note that the marking statute, as currently framed, specifically exempts imported goods from marking where marking cannot be effected except at an expense that is "economically prohibitive." The proposals considered here have failed to take into consideration the exceptional economic burdens they would place on food processors who, because of the need to source globally for reasons of price, quality, and supply, cannot implement such marking proposals except at an expense that is truly economically prohibitive. Because of the unique circumstances in which food processors are placed by the nature of their sourcing, we would ask that the Subcommittee consider acting to ensure that a more reasoned, balanced approach to country-of-origin marking is taken with respect to food products.

This approach would retain the present scheme, in which food products need only be marked to indicate the presence of imported inputs when the imported input is determined by Customs not to have undergone "substantial transformation." In cases where marking is thus required, we believe that the marking statute could faithfully be implemented by permitting a statement on the product to the effect that the product contains an imported input, such as "Contains imported concentrate" in the case of a fruit juice product. This approach would satisfy the purpose of the country-of-origin marking statute -- that is, to inform the purchaser that the product is not a U.S. product and allow him or her to "buy American," if he or she chooses. It would also enable food processors to implement the marking requirement in a reasonable manner; it would permit processors to use a single standardized label on food products containing imported components, and reduce the cost of compliance markedly. This proposal would also minimize interference with processors' sourcing decisions, and thereby avoid present concerns about the trade-distorting effects of our marking statute. We hope that the Subcommittee will give serious consideration to our proposal.

Mr. Rosenthal and I would be happy to answer any questions. Thank you.

Chairman GIBBONS. Mr. Neill.

STATEMENT OF DAVID NEILL, TREASURER, FLORIDA TOMATO EXCHANGE, AND OWNER, TRIANGLE FARMS, AND PARTNER, BIG RED TOMATO PACKERS, FORT PIERCE, FLORIDA

Mr. NEILL. My name is David Neill. I am the owner of Triangle Farms and a partner in Big Red Tomato Packers, Fort Pierce, Florida. My family has been growing tomatoes in Florida for more than 50 years and I personally grow about 250 acres each year. I am treasurer and a member of the executive committee of the Florida Tomato Exchange, a nonprofit cooperative agricultural association whose members ship more than 85 percent of the tomatoes grown in Florida each year. This statement is also supported by the Florida Fruit and Vegetable Association.

I will summarize my written testimony which I have submitted for the record. We support a Federal country-of-origin labeling requirement and believe it should include fresh produce. The State of Florida has had a country-of-origin labeling requirement since 1979. With regard to the Florida's Produce Labeling Act, the Florida Tomato Exchange supported its passage in 1979 and believes its enactment and enforcement provide a solid foundation for consideration of a national labeling law.

The exchange believes that identifying country of origin for fresh produce involves the issues of health and safety as well as economics. Investigations conducted by the General Accounting Office show that our Government's inspection practices provide only limited protection against a public exposure to illegal pesticides in imported foods.

In addition, it is a practice in the tomato industry for imported tomatoes to be repackaged. Some tomatoes are mixed with domestic and some are placed in local containers and some are placed in display bins.

In each case, neither the tomato nor its container is labeled or identified to the ultimate consumer as to the country of origin. We think this is unfair and that is why the exchange is supporting the passage of the Labeling Act. We think the tomatoes we produce are a better quality and much safer than those produced overseas.

We think consumers have a right to know where their tomatoes came from since foreign producers can use and have used pesticides that are illegal in the United States, because they use chemicals that have been banned or for which no tolerance has been set or that exceed the approved tolerances.

We think consumers should have a choice in buying domestic produce versus buying foreign produce. Let them decide which one they would like to eat. The marketplace should decide issues like this. Unfortunately for U.S. consumers and producers, the marketplace can't decide this issue because it doesn't have all the information or does not have the right information.

The case in point is pistachios grown in Iran. In the early 1980's, Iranian pistachios were being repackaged in the United States and marketed in the United States using the name "Pride of California." Domestic growers lost 40 percent of the U.S. market and lost approximately $20 million due to this deception.

In addition, there are countries that supposedly are labeling and exporting their own commodity to the United States, but the product literally can't be produced in that country. For example, dates from the United Kingdom. We think the goals of country-of-origin labeling have been met in Florida. Our experience is that the Florida act is being enforced and the implementation is at no additional cost to the Florida taxpayers. In addition, we have been told and we have seen that there really is little if any burden on the supermarkets since all they have to do is mark the country of origin on the pricing card at the display area in the produce department.

It is not impossible to label foreign produce. Grapes from Chile are being identified from that country. Toys from Taiwan and other things are all labeled as to country of origin. It is the same law enforced on these products, yet it is not done for perishable food items. We think the American public would prefer to know where the food they put in their mouth is grown, more than where their shirt was made or their car was assembled.

We have been told that for perishable commodities it would be too difficult to monitor, administer or enforce. We have been told it would be too closely to implement. We do not think any of these arguments are supported by the facts. For most products, the U.S. Customs Service already requires the importer to mark new containers as to the country of origin. If the article is sold, the importer must notify the subsequent purchaser and repacker in writing at the time of sale or transfer that any repacking of the article must conform to the marking requirements.

It is practically being done now by the Customs Service. It just needs to be carried forward to the ultimate consumer and enforced. The Exchange believes it is a short step for Congress to restate its intent that all imported items, including specifically fruits and vegetables, should be identified as to their foreign country of origin.

Congress should take this up not only because it can be implemented and enforced with little effort and cost, but also because it will help U.S. consumers and producers. The Florida statute and experience should be a source of encouragement to the members who believe this loophole should be closed or simply believe that labeling produce as to its country of origin is the right thing to do.

Thank you and I will be happy to answer any questions you might have.

[The statement of Mr. Neill follows:]

STATEMENT OF

DAVID NEILL

FLORIDA TOMATO EXCHANGE

Introduction

My name is David Neill. I am the owner of Triangle Farms and a partner in Big Red Tomato Packers, Ft. Pierce, Florida. My family has been growing tomatoes in Florida for more than 50 years and I personally grow about 250 acres each year. I am Treasurer and a member of the Executive Committee of the Florida Tomato Exchange, a non-profit cooperative agricultural association whose members ship more than 85% of the tomatoes grown in Florida each year. This statement is also supported by the Florida Fruit & Vegetable Association.

Background

Florida is the major domestic source of fresh tomatoes for the U.S. market from November through May. The State's output has trended steadily upward due mainly to our adoption of new technology.

The problem our growers face is severe -- increasing and unfair competition from abroad. The quantity of fresh vegetables imported into the United States from Mexico has increased greatly and Mexico has taken over a large part of the U.S. winter market. In addition, during certain times of the season, heavy imports from Mexico seriously disrupt the U.S. market. In fact, during these times, we believe that, on many occasions, prices quoted for Mexican tomatoes are below their cost of production. On top of all of this, until quite recently Mexico has not allowed U.S. tomato producers to ship into Mexico, and this is now permitted only with excessively high tariffs.

Florida's tomato producers repeatedly have stated they are willing to compete with producers from other areas as long as the competition is fair. That is our position today.

The State of Florida has had a country of origin labeling requirement since 1979. With regard to Florida's Produce Labeling Act (Act), the Florida Tomato Exchange supported its passage in 1979 and believes its enactment and enforcement provide a solid foundation for consideration of a national labeling law.

The Problem

The Exchange believes that identifying country of origin for fresh produce involves the issues of health and safety as well as economics.

Investigations conducted by the General Accounting Office (GAO) show that our government's inspection practices provide only limited protection against public exposure to illegal pesticides in imported foods.

In addition, it is a practice in the tomato industry for imported tomatoes to be repackaged. Some tomatoes are mixed with domestic tomatoes, some are placed in local brand containers, and some are placed in display bins. In each case, neither the tomato nor its container is labeled or identified to the ultimate consumer as to country of origin.

We think this is unfair and that is why the Exchange is supporting the passage of a Labeling Act.

We think the tomatoes we produce are better quality and much safer than those produced overseas.

We think consumers have a right to know where their tomatoes come from since foreign producers can use (and have used) pesticides that are illegal in the U.S., because they use chemicals that have been banned or for which no tolerance has been set, or they exceed the approved tolerances.

We think consumers should have a choice in buying domestic produce versus buying foreign produce. Let them decide which one they want to eat.

We think the marketplace should decide issues like this. Unfortunately for U.S. consumers and producers, the marketplace cannot decide this issue because it either does not have all the information or it does not have the right information. A case in point -- pistachios grown in Iran. In the early 1980's, Iranian pistachios were being repacked in the U.S. and marketed in the U.S. using the name, "Pride of California." Domestic growers lost 40% of the U.S. market and lost approximately $20 million due to this deception. In addition, there are countries that supposedly are labeling and exporting their own commodity to the U.S. but the product literally cannot be produced in that country, e.g., dates from the United Kingdom.

For the foregoing reasons, the Exchange supported the effort which resulted in the Florida Produce Labeling Act. We believed that Act was a modest attempt to provide some useful information in the marketplace. The Act provides Florida's consumers and their families with a healthier and safer product. It also allows the consumer to select the domestic or imported tomato - whichever they prefer.

We think these goals have been met in Florida. It has been our experience that the Act is being enforced and the implementation of the Act is at no additional cost to the Florida taxpayers. In addition, we have been told and we have seen that there really is little, if any, burden on the supermarkets since all they have to do is mark the country of origin on the pricing card at the display area in the produce department.

National Labeling Law

The Exchange believes that a national labeling law is justified at this time and could work as well as the Florida law.

The Exchange has taken an active part in promoting a national labeling law. In part, we were forced to raise the issue because no one at the federal level would take the responsibility for requiring country of origin labeling despite the fact that our research indicated a number of federal laws were applicable to imports of fruits and vegetables.

In 1981, the Exchange petitioned the U.S. Customs Service to properly interpret Section 304 of the Tariff Act of 1930 (19 U.S.C. § 1304) to require that country of origin be conspicuously marked on imported tomatoes or their containers at the time of sale to the ultimate consumer. (Copy attached.)

The U.S. Customs Service basically determined that imported tomatoes and containers were marked as to country of origin when they entered the U.S. and, if they were repackaged, those containers must be marked. Later, the Customs Service determined each subsequent purchaser or repacker must be notified of the marking requirements "to ensure that an ultimate purchaser in the United States is aware of the country of origin of the imported article." (48 Fed. Reg. 33860; 19 C.F.R. Part 134). However, to our knowledge this regulation is not enforced and, with regard to tomatoes, the Customs Service has advised us that the display bins are not "containers" as they interpret the statute. Therefore, according to the U.S. Customs Service, these display bins do not have to be marked as to country of origin even though it was the clear intent of Congress to identify to the ultimate U.S. consumer the foreign country of origin of each imported product unless it was impossible to do so.

Clearly, it is not impossible to label foreign produce. Grapes from Chile are now identified as a product of that country. Clothing from Hong Kong, cars from Japan, toys from

Taiwan all are labeled as to country of origin. It is the same law that is enforced on these products; yet, it is not done for perishable food items. We think the American public would prefer to know where the food they put in their mouths is grown, more than where their shirt was made or car was assembled.

We have been told that for perishable commodities it would be too difficult to monitor, administer or enforce. We have been told it would be costly to implement. We do not think any of these arguments are supported by the facts. For most imported products, the U.S. Customs Service already requires the importer to mark new containers as to country of origin. If the article is sold, the importer must notify the subsequent purchaser or repacker, in writing at the time of the sale or transfer, that any repacking of the article must conform to the marking requirements. (48 Fed. Reg. 33860, July 26, 1983). It is practically being done now by the Customs Service. It just needs to be carried forward to the ultimate consumer and enforced.

The Exchange believes it is a short step for Congress to restate its intent that all imported items, including specifically fruits and vegetables, should be identified as to their foreign country of origin. Congress should take this up not only because it can be implemented and enforced with little effort and cost, but also because it will help U.S. consumers and producers. The Florida statute and experience should be a source of encouragement to members who believe this loophole should be closed or simply believe that labeling produce as to its country of origin is the right thing to do.

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ADMITTED ILLINOIS ——
ADMITTED OHIO ——

October 5, 1981

Commissioner of Customs
Attention: Office of Regulations
and Rulings
Washington, D.C. 20229

Re: Request for Interpretive Ruling
on Application of Part 134 of
19 CFR to Marking of Imported Tomatoes

Dear Commissioner:

Florida Tomato Exchange ("FTE"), by its undersigned authorized representative, requests an administrative ruling by the Commissioner pursuant to Part 177 of Title 19 of the Code of Federal Regulations on the application of Part 134 of Title 19 to the marking of imported tomatoes, or their containers, to indicate their country of origin. To the best of FTE's knowledge, the issue presented by this request has not been considered nor is it currently being considered by any Customs Service office, the Customs Court, the Court of Customs and Patent Appeals, or any other court. The ruling here requested would not apply to any prior or pending transactions. Although the ruling would apply to the future importation of tomatoes, FTE cannot predict what specific transactions or importers would be affected.

ISSUE PRESENTED

Pursuant to Section 304 of the Tariff Act of 1930 (19 U.S.C. §1304), must tomatoes that have been imported into the United States in bulk containers and thereafter packaged in smaller containers for resale to the ultimate purchasers be marked (or the smaller containers marked) in a conspicuous place to indicate to the ultimate purchasers the country of origin of the tomatoes?

REQUESTED RULING

Florida Tomato Exchange respectfully urges that the regulation of the United States Customs Service, Department of Treasury, implementing the marking requirements and exceptions of Section 304 of the Tariff Act of 1930 be interpreted to require that the country of origin be conspicuously marked, if not on the tomatoes themselves, on containers in which imported tomatoes are repackaged for sale to ultimate purchasers.

INTEREST OF FTE

The Florida Tomato Exchange is a non-profit cooperative association, incorporated in 1974 under the laws of Florida, whose members are producers and first handlers of fresh tomatoes in Florida. Its members handle approximately 80% of Florida's annual tomato crop, which in the 1979-80 season totaled about one billion pounds of tomatoes produced on 40,000 acres of farmland. FTE performs for its members various marketing and related services, including production research, consumer education, legislative activities and legal assistance on matters affecting the tomato industry.

Among the concerns with which FTE deals on behalf of its members is that of competition by importers of tomatoes produced outside the United States. FTE also is concerned, on behalf of its members, with the quality, safety and attractiveness of tomatoes and tomato products sold in the United States, whether or not produced or handled by FTE members, insofar as such quality, safety and attractiveness may affect consumer perceptions of tomatoes and tomato products generally and thereby affect the demand for tomatoes produced or handled by FTE members.

FTE is directly concerned with the accurate dissemination to the consuming public of information on the source of tomatoes marketed in the United States. It is, for this reason, directly concerned with the enforcement by the Secretary of the

Treasury and the Commissioner of Customs of the requirement of Section 304 of the Tariff Act of 1930 that imported articles, including tomatoes, be marked conspicuously to indicate to the ultimate purchaser their country of origin.

FACTS

From October through July, over two billion pounds of winter fresh tomatoes are consumed in the United States.1/ Approximately one-third of these tomatoes are produced in Florida and another third are imported from Mexico.2/ The balance of the supply comes from other areas in the United States -- principally California, Texas and South Carolina.

From the perspective of the consumer, imported fruits and vegetables are not fungible with those produced domestically. In some instances, the imports are more highly regarded and in other instances less highly. For instance, the weighted average price of Mexican-produced bell peppers has been $2.67 per bushel higher than the price of Florida-produced peppers at the same time that the weighted average price of Mexican-produced winter tomatoes has been 17 cents lower per 30-pound carton than Florida-produced tomatoes.3/ Consumer preference can, of course, be affected not only by perceptions of comparative quality, but also by perceptions of comparative health risk. Bearing on the latter, is an extensive report by the Comptroller General of the United States submitted to the two Houses of Congress on June 22, 1979 concerning Federal efforts to regulate the export of pesticides from the United States and to ensure that imported foods do not contain residues of pesticides at levels which may be harmful to American consumers.4/ The report concludes that Federal efforts to analyze pesticide residues on imported produce and the

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1/ G. A. Zepp, U.S. Winter Fresh Tomato Price and Quantity Projections for 1985, U.S. Department of Agriculture, Economics and Statistics Service, ESS-4 (1981), pages 1, 6-7.

2/ Id., page 1.

3/ Zepp and Simmons, Producing Winter Vegetables in Florida and Mexico: Costs and Competition, U.S. Department of Agriculture, Economics and Statistics and Cooperatives Service, ESCS-72 (1979), pages 48-49.

4/ Report to the Congress of the United States by the Comptroller General, U.S. General Accounting Office, GPO (1979).

setting of tolerances on such residues were inadequate. More particularly, the report concludes:

> Half of the imported food that the Food and Drug Administration found to be adulterated during a 15-month period was marketed without penalty to importers and consumed by an unsuspecting American public. This occurred because the Food and Drug Administration's policy permits perishable products to enter commercial channels before residue analyses are complete.5/

Over 85% of the Mexican-produced tomatoes imported into the United States enter the country through Nogales, Arizona. The only other significant point of entry is San Diego, which in 1978 handled 10% of the volume coming through Nogales.6/ Importation and marketing procedures, with respect to both governmental and commercial interests, are well-established and highly structured in both Nogales and San Diego.7/ Customs brokers maintain their own loading docks at each point of entry and various produce distributors to whom the brokers sell the tomatoes or to whom the tomatoes are consigned maintain their own warehouses in the area.8/ The distributors in turn sell the tomatoes to wholesale buyers, generally on either commission or consignment.9/

In addition to being subject to regular Customs and tariff procedures, imported tomatoes are subject to other legal requirements, including some that bear on handling or use of the tomatoes after they enter the United States. Principal among these are quality standards monitored by the U.S. Department of Agriculture and health standards monitored by the Food and Drug Administration.

5/ Id., page iii.

6/ Preview of Mexico's Vegetable Production for Export, U.S. Department of Agriculture, Foreign Agricultural Service, FAS M-297 (1980), page 68.

7/ Id., pages 22-24. Imports from Baha California actually pass through San Ysidro, California, although under the jurisdiction of the San Diego Customs Office.

8/ Id., page 23.

9/ Id., pages 23-24.

Under Section 8e of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. §608e-1), imported tomatoes are subject to the same grade, size, quality and maturity standards as are Florida tomatoes.10/ Imported tomatoes may be excepted from these requirements if it is certified that they are to be used in non-commercial outlets for experimental purposes and there is subsequent verification that they are so used.11/

Procedures administered by the Food and Drug Administration on relabeling of mislabeled items permit importation subject to certification (and a bond to ensure performance, if necessary) that such labeling will thereafter be performed.12/ Although these provisions apparently have no present application to imported tomatoes (because presently there is no labeling requirement for tomatoes), the procedures are applicable once labeling is required.

Mexican-produced tomatoes commonly are imported into the United States in either 2 layer flats of approximately 22 pounds or 3 layer lugs of approximately 30 pounds. Although the tomatoes themselves are not marked as to their country of origin, the exterior of each container is marked "Produce of Mexico," or something similar. The tomatoes remain in these containers through the channels of commerce until they reach a retailer or chain store which sells directly to the consuming public or to a commercial buyer who will process or serve the tomatoes in some other form. Or, the tomatoes are shipped to a "repacker" who repackages them to the specifications of his retail customers in different containers which are not labeled as to the country of origin. Small or low volume retailers may offer the tomatoes to the consuming public while they are still in the original, marked container. In such case, the legend "Produce of Mexico" conveys to the ultimate purchaser the country of origin as he serves himself from the carton.

Increasingly, however, in addition to the "repackers" large volume retailers and chain stores have been repackaging a majority of the imported tomatoes in different or smaller containers or a clear tray overwrap such as a "three-pack" with a cellophane window through which the fresh tomatoes can be viewed. Although these "three-packs" (or repackaged containers) commonly

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10/ See U.S.D.A. Marketing Order No. 966 (7 CFR, Part 966).

11/ 7 CFR §980.212(b).

12/ 21 U.S.C. §381(b); 21 CFR §§1.83 through 1.99.

have various information printed on them -- e.g., price, weight, variety of tomato, and name of distributor or retailer -- any statement that Mexico is the country of origin invariably is omitted. This omission could easily be corrected and its correction easily verified.

THE STATUTORY SCHEME

Section 304 of the Tariff Act of 1930 as originally enacted (June 17, 1930, c. 497, Title III, §304, 46 Stat. 687) required that "[e]very article imported into the United States, and its immediate container, and the package in which such article is imported, shall be marked . . . to indicate the country of origin of such article." The Act went on to provide that "[t]he Secretary of the Treasury may, by regulations . . ., except any article from the requirement of marking . . . if he is satisfied that such article is incapable of being marked, . . . or cannot be marked . . . without injury, or except at an expense economically prohibitive . . ., or that the marking . . . of the immediate container of such article will reasonably indicate the country of origin of such article." Thus the Act required marking the bulk container, the immediate container and the article itself, subject to a limited range of exceptions that the Secretary might prescribe by regulation.

Experience under the original Act showed the threefold marking requirement to be unnecessarily severe and the exceptions too inflexibly narrow. Accordingly, the Department of the Treasury in 1937 proposed amendments to Section 304 as part of the more general Customs Administrative Bill (H.R. 6738, Seventy-Fifth Congress). A particular point urged by Treasury in supporting its proposed amendment of Section 304 was that marking a bulk container provides no useful information to the immediate recipient of the bulk container (who undoubtedly knows the country of origin), that such marking provides no information to ultimate purchasers who never see the bulk container, and that imposing a penalty on the importer for lack of marking on the bulk container both punishes the importer unfairly and serves no function in assuring information to the ultimate purchasers. Hearings Before the Committee on Ways and Means, House of Representatives, Seventy-Fifth Congress, May 19, 1937, pp. 41-48.

The resulting 1938 amendment of section 304 (June 25, 1938, c. 679, §3, 52 Stat. 1077) both eliminated the threefold marking requirement and emphasized that the country of origin was to be marked "in such manner as to indicate to an ultimate purchaser . . . the country of origin of the article." 19 U.S.C. §1304(a). At the same time, it expanded the categories of exceptions that the Secretary could allow by regulation. One of these categories -- the so-called "J-List" exception -- in effect

provided that the Secretary, after notice by publication, could except an article from the requirement of marketing if it was of a class or kind which had been imported in substantial quantities during the five-year period preceding 1937 and had been excepted from the marking requirement under the earlier law. Another category of exception, which we will refer to as "D exceptions," includes articles for which the "marking of a container for such article will reasonably indicate the origin of such article." 19 U.S.C. §1304(a)(3)(D).

The 1938 amendment also introduced a new subsection (b) to Section 304 providing, in pertinent part, that whenever an article was excepted from marking as authorized by subsection (a), including the D and J-List exceptions, then "the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser . . . the country of origin of such article." Subsection (b) went on to provide, however, that the Secretary could authorize the same exceptions for container marking pursuant to subsection (b) that he could authorize for article marking pursuant to subsection (a).

The 1938 amendment also added new provisions on enforcement responsibility and procedures. While the earlier statute had flatly provided that a 10% additional duty be imposed on articles not properly marked at time of importation, the amendment permitted the importer to avoid the additional duty if the article was "marked after importation in accordance with the requirements of this section (such . . . marking to be accomplished under Customs supervision prior to the liquidation of the entry covering the article . . .)." 19 U.S.C. §1304(c). In the hearings on the 1938 amendments before the Committee on Ways and Means of the House of Representatives, the American Tariff League presented a brief specifically objecting to the language of this provision because it would permit "the marking of merchandise which had been delivered from Customs custody into the importers' place of business to be marked there without the payment of the additional duty." Hearings, p. 121. However, an amendment proposed by the League to correct this perceived deficiency was rejected.

THE REGULATORY SCHEME

We read the Secretary's regulations as implementing the statutory purpose to assure that country of origin information reach the ultimate purchaser whenever practicable, that the marking of bulk containers be dispensed with when such marking

will not serve this purpose, and that containers used in repackaging imported articles -- even after the articles are released from Customs custody -- be marked in such a manner as to inform the ultimate purchaser. More particularly, we read sections 134.22, 134.33 and 134.34 of the regulation to require that natural products, including tomatoes, that are imported in a bulk container be marked as to country of origin by marking "the outermost container in which the article [the tomato] ordinarily reaches the ultimate purchaser." This reading is based on the language of the regulation and the clear mandate of the statute.

While particularizing in subpart D the exceptions authorized by the statute, the regulation in subpart C provides that "[w]hen an article is excepted from the marking requirements . . . the outermost container or holder in which the article ordinarily reaches the ultimate purchaser shall be marked to indicate the country of origin of the article whether or not the article is marked to indicate its country of origin." 19 CFR §134.22; emphasis added.

The regulation defines "ultimate purchaser" as follows:

"§134.1 Definitions.

* * *

(d) Ultimate Purchaser. The "ultimate purchaser" is generally the last person in the United States who will receive the article in the form in which it was imported. It is not feasible to state who will be the "ultimate purchaser" in every circumstance. The following examples may be helpful:

(1) If an imported article will be used in manufacture, the manufacturer may be the "ultimate purchaser" if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains the article after the processing, will be regarded as the "ultimate purchaser."

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the "ultimate purchaser."

(4) If the imported article is distributed as a gift the recipient is the "ultimate purchaser."

[19 CFR §134.1(d)]

There is no suggestion in section 134.22 that the "outermost container" must be one in which the article was imported. Other regulatory provisions make clear that the "outermost container" here referred to does comprehend a container used in repackaging an article after release from Customs. Since this provision expressly applies to containers of articles falling within all exceptions other than F, G and H, it clearly applies to D and J-List exceptions.

In addition to the general rule on marking containers of excepted articles, as quoted above, the Secretary has prescribed more specific rules for D and J-List exceptions. 19 CFR §134.32(d).

For D exceptions, the regulation requires marking after repackaging as follows:

§134.34 Certain repacked articles.

(a) Exceptions for repacked articles. An exception under §134.32(d) may be authorized in the discretion of the district director for imported articles which are to be repacked after release from Customs custody under the following conditions:

(1) the containers in which the articles are repacked will indicate the origin of the articles to an ultimate purchaser in the United States.

(2) The importer arranges for supervision of the marking of the containers by Customs officers at the importer's expense or secures such verification, as may be necessary, by certification and the submission of a sample or otherwise, of the marking prior to the liquidation of the entry.

The Secretary's statement of "J-List Exceptions", which includes "[n]atural products, such as vegetables [and] fruits . . . which are in their natural state," admonishes:

However, in the case of any article described in this list which is imported in a container, the outermost container in which the article ordinarily reaches the ultimate consumer is required to be marked to indicate the origins of its contents in accordance with the requirements of Subpart C of this part.

As we have already noted, Subpart C requires that "the outermost container or holder in which the article ordinarily reaches the ultimate purchaser shall be marked to indicate the country of origin." 19 CFR §134.22(a).

DISCUSSION

Section 304(b) of the Tariff Act provides that whenever an imported article is itself excepted from marking "the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser . . . the country of origin." 19 U.S.C. 1304(d); emphasis added. As far as tomatoes are concerned, the "immediate container" could be a bushel basket, a wooden crate, a carton, the bed of a truck or a cellophane-covered "three-pack". In any event, it is clear that the statute requires that the immediate container have a marking designed to reach the "ultimate purchaser", unless the Secretary prescribes by regulation that some other container "shall be marked in such manner as to indicate to an ultimate purchaser . . . the country of origin" (emphasis added).

There is nothing in the language of Section 304(b) to suggest that "immediate container" refers only to a container in which the article was imported or in which it was placed prior to being released by Customs. Indeed, the natural reading of the language is that it refers to the "immediate container" that reaches the "ultimate purchaser." Unless so read, the very purpose of the requirement could be defeated. This is confirmed both by the legislative history and by the provision in subsection (c) of Section 304 for marking after release from Customs. The Secretary has also confirmed this reading of Section 304(b) in his adoption of section 134.34 of the regulation, which provides for customs monitoring and supervision of the marking of the containers of repacked articles falling within the D exception.

We turn now to consider what exceptions apply to tomatoes as imported articles. Having done so, we will consider what exceptions, if any, or alternative modes of marking the Secretary has prescribed for containers of tomatoes.

All imported tomatoes fall within the J-List exceptions as "[n]atural products, such as vegetables [and] fruits." 19 CFR §134.33. It is also clear that some tomatoes - i.e., those that are in some sort of container at the time they are sold to the ultimate purchaser - fall within the D exception for "[a]rticles for which the marking of the containers will reasonably indicate the origin of the articles." 19 CFR §134.32(d).

The regulation provides general requirements for marking containers of all excepted articles other than those in categories F, G and H. The regulation also prescribes more specific marking requirements for containers of articles falling within exceptions D and J.

The general container marking requirement of section 134.22, as we have seen, requires that "the outermost container or holder in which the article ordinarily reaches the ultimate consumer shall be marked." This is clearly a Secretarial alternative, authorized by the statute, to what would otherwise be the statutory requirement for marking the immediate container. See 19 U.S.C. §1304(b). Application of this provision is not limited to containers in which an article was imported and, as we have seen, is properly construed to apply to containers used in repackaging after importation. If it were not so construed, then the Secretary has failed to provide by regulation for an alternative mode of container marking to reach the eyes of the ultimate purchaser. In such case, the statutory mandate of marking the "immediate container" would apply.

An example will illustrate the point we have just made. If tomatoes are retailed in cellophane "three-packs" that are displayed in larger boxes or cartons, the statute would require (absent an alternative regulation by the Secretary) that each cellophane three-pack be marked to indicate the country of origin. Under the Secretary's regulation, however, marking of the box or carton would be sufficient if it indicates to an ultimate purchaser the country of origin.

The first of the two more specific provisions applicable to tomato containers is that of the J-List itself, 19 CFR §134.33. This provides another alternative, applicable only to tomatoes that are "imported in a container," that "the outermost container in which the article ordinarily reaches the ultimate consumer is required to be marked." Although more limited in its applicability -- i.e., it applies only to articles that are "imported in a container" -- this provision is consistent with the more general requirement of Section 134.22 on the marking of containers of excepted articles. In any event, it is clear that if there is no container "ordinarily reach[ing] the ultimate consumer" that has to be marked pursuant to Section 134.33, then any container in which the article is subsequently placed would have to be marked in accordance with section 134.22. If the latter section were also read as not applying (and there was no other applicable container marking requirement in the regulation), then the basic statutory requirement of Section 304(b) of the Tariff Act, that the "immediate container" be marked, would necessarily come into play.

The second of the two more specific provisions applicable to tomato containers is section 134.34, which provides for marking of containers of articles excepted under category D that are to be repacked after release from Customs custody. Without distinguishing between "outermost" container and "immediate" container, this section simply provides that "[t]he containers in which the articles are repacked will indicate the origin of the articles to an ultimate purchaser in the United States." 19 CFR §134.34(a)(1). Thus, even though the "outermost" container destined to reach the ultimate purchaser of imported tomatoes is not marked to indicate the country of origin, the residual statutory obligation to mark the "immediate" container reaching the consumer could be avoided by marking whatever container the tomatoes are repacked in, provided doing so "will indicate the origin of the articles to an ultimate purchaser." Otherwise, the "immediate" container must be marked.

CONCLUSION

Despite their apparent complexity, the statutory and regulatory provisions, insofar as they apply to imported tomatoes, can be reduced to two simple propositions. First, the marking of the country of origin on a bulk container not designed or intended to reach the ultimate purchaser satisfies neither the statute nor the regulation. Second, either the "immediate" or the "outermost" container actually reaching the consumer must be conspicuously marked to indicate the country of origin.

Very truly yours,

BARNETT & ALAGIA
St. John Barrett
John M. Himmelberg
Counsel for the Florida
Tomato Exchange

By John M. Himmelberg
John M. Himmelberg

JMH:jb

Chairman GIBBONS. Let me ask you a question about a tomato. I go through the cafeteria at Morrisons. Am I the ultimate consumer of that tomato salad or is Morrisons? Is my tomato supposed to be stamped, product of Mexico or how am I supposed to know?

Ms. Studley is your suggestion that it be done at the grocery store level not at the restaurant. The restaurant doesn't give a damn except they don't want to be sued. I am the ultimate consumer of the tomato, am I not? If we are protecting ultimate consumers where does it stop? Does it stop with Morrisons or does it stop with me?

Ms. STUDLEY. I would think essentially it is sort of a balancing act in terms of the respective costs and benefits. Labeling in the grocery stores at least will reach the bulk of consumers. The burden increases if you impose it on restaurants and cafeterias.

Chairman GIBBONS. I wish I had those people from Food and Drug and Agriculture here because there seems to be a conflict between what they told us and what you are telling us. You are saying, if I am hearing you right, I am talking about the whole panel now, there are certain adulterated products that come in, for example, that contain steroids and other harmful things that none of us want to inhale or consume.

Mr. CRANE. Good imported Turkish blend.

Chairman GIBBONS. And the FDA and the Agriculture people said that is not true, just because they aren't labeled doesn't mean that they get into this country. I know you are expert on this and you know it a lot better than I do and I am not belittling you, but who is telling me the whole story? Is Food and Drug wrong when they say just because we don't require labeling all the way to the ultimate consumer these products are still safe, there are not any problems connected with them, is that the story or is it the story of those who want to label all the way to the consumer that adulterated products are getting into the food supply system?

Anybody want to volunteer?

Mr. ROSENTHAL. So I am not labeled as a potted plant, I would like to make a couple of points. First, there is no evidence that the Food and Drug Administration and USDA are wrong about the imports coming in having no more problems than domestic products. FDA did a study of apple juice concentrates and USDA testifed that imports do not pose a health problem.

However, for purposes of argument, lets assume USDA and FDA are wrong and imported products have higher levels of pesticides.

There is no connection that has ever been made by any proponent of marking at the retail level between country-of-origin marking and preventing the alleged health problems that are caused by those imported ingredients. There is no way to trace levels of pesticides from the retail level back to the imports. In short, country-of-origin marking on the retail products will do nothing to deal with the alleged health and safety concerns.

To summarize, there is no justifiable health and safety concern on imported foods. Second, because we are dealing with country-of-origin marking requirements on retail products, marking on the retail product has nothing to do with the alleged health and safety issues.

I want to respond for the record to four examples raised this afternoon of problems under existing law. One was the allegation concerning kangaroo meat. That case involved a violation of existing law or mislabeling the meat. A country-of-origin marking statute would have nothing to add to remedy that problem.

The second issue concerned labeling pistachios as being from California when they were really from Iran. That was covered under existing country-of-origin marking statutes and Customs has taken care of that. That was a mislableling problem under existing law. New country-of-origin statutes will not deal with that problem either.

Third is the example of dates from the United Kingdom where they don't produce dates. That problem, too, is covered under existing law. If someone is going to mislabel under existing law they can mislabel under a new country-of-origin marking statute as well.

Finally, Congressman Thomas wanted to know why FDA couldn't or wouldn't do anything about calling something 100-percent American beef, even though the product contains imported beef. That is mislabeling under the FDA statute. Country-of-origin labeling at retail would not solve that issue either because someone who is going to mislabel under existing law will mislabel under a new statute as well.

Thank you.

Mr. STRAIN. I think that as a consumer, and this goes back to this equal to, if Australia and New Zealand are using a carcinogenic drug that has been banned in this country and FDA says it is a no-no as far as production control is concerned, I would rather as a consumer rely on the finding and examinations of an agency of this country, than I would an agency of a foreign country, even though it is equivalent to our FDA.

If I were to purchase an 80 percent beef frankfurter that came from animals produced with the assistance of that banned drug, I wouldn't have the sophistication and background knowledge to know. The one thing I would know with labeling is that my team had approved that production system and the use of that drug and I think that is a very relevant thing.

Mr. WELCOME. Mr. Chairman, on that point I would like to first point out that all imported meat and meat products that are shipped to the United States must have been subjected to inspection in the importing country by an inspection program that is certified to be the equivalent of our own inspection system.

As it enters this country it is labeled as to the country of origin and will be inspected at the port of entry by U.S. inspectors. After the imported meat has been accepted for use in the United States most likely it will be sent to a U.S. meat plant for further processing.

When the imported meat is further processed, it is subject to additional U.S. inspection as a processed product and loses its foreign identity. The Federal Meat Inspection Act requires that all processed product shipped from a federally inspected facility must be inspected and passed.

Therefore, imported products are subject to inspection at three separate stages, once in the country of origin, again at the U.S. port of entry, and finally at the processing facility.

Chairman GIBBONS. Would they pick up the drug?

Mr. WELCOME. USDA samples a certain amount of imported products coming in at the port of entry in order to pick up violative residues. Likewise, USDA samples domestic products at slaughter and during further processing to detect illegal residues. The residue sample system is not designed to pickup 100 percent of the possible residue violations, only to alert USDA when there is a potential problem.

Once a foreign product has been accepted into the United States, it will be subject to further inspection as stated earlier. Illegal residues, whether drug or pesticide, have a good chance of being detected by USDA at either the port of entry or during further processing inspection.

Chairman GIBBONS. So, you are telling me that even if a banned substance is included in any product that is imported into the United States, it can be picked up either at the border or during inspection of the processing facility?

Mr. WELCOME. It has the potential of being picked up at the port of entry inspection through its residue detection system or it could be picked up at the plant itself where the product is inspected. But it does undergo another inspection—once that meat comes into the country and becomes part of the system, it does undergo U.S. inspection in a federally inspected facility. That product has to be under U.S. inspection, so it does undergo inspection in the U.S. facilities; otherwise it can't be shipped out of that facility.

Chairman GIBBONS. So it is all imagination that there are any steroids or other deleterious products included——

Mr. WELCOME. The potential exists for both imported meat to contain banned substances, as well as a potential for U.S. produced animals to have banned substances in their system as well. The system is geared to try to get as much of that out as possible.

All I am suggesting is that once imported meat comes into the country, it is in fact inspected in the facility where it is processed and they do run various types of inspection and residue detection programs in the plants themselves; whether it is for microbiology or for chemical residues, they are tested in the United States as well. So chances are a lot of that product could well be picked up in the system.

Mr. STRAIN. Going back to the USDA inspector general's report at this particular time, I think at that time the United States only tested for drug residues of drugs that were approved for use in the United States, and if that was the case—and I am quite sure of what I am saying; either of the other agencies can answer this question accurately—we wouldn't even have tested for that residue because it was banned in the United States. I think that is very relevant.

This is a livestock industry forum newsletter. It says, "Identification is coming." We are warning ourselves as an entire industry. And it says, "And the principal reason is residue." We are talking about drug residues here. I think that is a big thing on the minds of the consumer today, and we, the production end of this business,

stand to get our heads knocked off needlessly. We are concerned about this.

When the FDA says there is no consumer awareness, either we are wrong or they are wrong. The polls, the one quoted in the Wall Street Journal, you have to pay attention to those. They are for real.

Mr. WELCOME. One point on that, with respect to putting resources of the Department of Agriculture where the problem is. Adding cost to the Government by requiring them to check and see whether or not you are living up to the standards of your label, you are not really putting the Government financial resources in the place where it is most needed.

The place where it should be is in product inspection itself. We should be putting resources into microbiology and residue testing samples, because that is the only way we can truly guarantee the consumer that the product is safe and wholesome. By just putting the label on there, the consumer doesn't understand what the animal husbandry practices of the importing country may be.

Chairman GIBBONS. Mr. Strain said that we don't test for products that are banned in this country.

Was I correct?

Mr. STRAIN. At the time this practice—I shouldn't say "violation," because it didn't violate anything.

Chairman GIBBONS. Suppose we have got XYZ product or banned substance. You are telling me that we don't even test for that because it is banned?

Mr. STRAIN. That is exactly what I am telling you. At the time this inspector general's report was made, that was one of their recommendations, that our agencies charged with that responsibility develop tests for chemical residues even though those chemicals were banned in this country, because they may be allowed in another country because those countries are sovereign, they may see it differently.

Mr. WELCOME. I understand the USDA, when it does its field surveys in those countries, it asks the countries to decribe what chemicals are used in the production of their food animals. They are looking at the whole range of animal husbandry practices in a particular country. If they are using chemicals or drugs that are banned for use in the United States, they know they can't ship that meat to the United State with those substances that have been banned for use in the United States.

I don't know about the entire list now being tested by USDA, but it is pretty extensive. It would cost hundreds of millions of dollars to test for every substance known to man, but basically you know what types of animal drugs or what types of pesticides are being used in those countries and I think you can test, knowing that those are the products being used in those countries.

Again, you couldn't possibly guarantee 100 percent that a particular animal drug or a particular pesticide residue is not actually being used in that food animal.

Chairman GIBBONS. What is the date of that report, Mr. Strain?

Mr. STRAIN. I believe it is 1986.

Chairman GIBBONS. Do any of the rest of you have a response along this line?

Mr. COOK. We talked about labeling and food safety and you have diverse views at the table. Even though our policy at the National Cattlemen's Association is different than the American Meat Institute, I agree with the comment that if it isn't safe we don't want it at all, whether it is labeled or not.

We feel that even though food safety is important and the meat inspection system in other countries and our import inspection system are extremely important for the integrity of the entire food industry, we do separate it from the labeling question.

Mr. Rosenthal said for the record and I'd also like to say for the record on another subject—in 1981 it was horse meat, not kangaroo, and, secondly, because of a horse meat scandal in 1981 there were some significant changes that the industry and Congress forced upon the meat inspection service to improve that problem that required species identification, which required residue testing which was never done before. The residues are not in the meat, they are in the organs, and the organs never make it to this country. So we established residue testing programs in other countries.

As to how far we trust other countries and their systems, we have to depend on the FSIS to approve that or disapprove that. We don't have the qualifications or the wherewithal to go to another country to pass judgment on their system, so we have to rely on various investigations and reports.

Be that as it is, I think we are, as an industry, very concerned about meat inspection. We are working on that front also and I believe we are making headway.

Chairman GIBBONS. We are running out of time. We are going to bring the panel back.

What you are saying, as I understand, is that country-of-origin labeling doesn't have a heck of a lot to do with safety?

Mr. COOK. Well, there is a concern about food safety, whether it is imported or domestic. We believe that labeling, quite honestly, is a consumer right to choose.

Mr. Crane said earlier today that if it is safe, why does the consumer care. If that is the question, that is something we need to debate.

But we believe the consumer has that right and that the consumer may want to make that choice. Our argument is not based on the safety of the imported product.

Chairman GIBBONS. We will go and vote and be back in just a minute. If any of the witnesses have travel problems, we will excuse you. We understand.

[Recess.]

Chairman GIBBONS. I would ask you all to be patient just a little while until Mr. Crane has a chance to get back.

I thank this panel very much.

Will the next panel assemble at the table.

[Recess.]

Chairman GIBBONS. We now have the Association of Food Industries, Inc., Procter & Gamble, and the National Food Processors Association. Who wants to go first? Association of Food Industries, Inc., Mr. Hartog.

STATEMENT OF JACK B. HARTOG, IMMEDIATE PAST PRESIDENT, ASSOCIATION OF FOOD INDUSTRIES, INC., AND PRESIDENT, HARTOG FOODS INTERNATIONAL, INC., ACCOMPANIED BY HERBERT E. HARRIS II, COUNSEL

Mr. HARTOG. Before I proceed I would like to compliment the Chair on its selection of beverages.

Chairman GIBBONS. Thank you. Somebody left it here.

Mr. HARTOG. My name is Jack B. Hartog. I am the immediate past president and a member of the board of directors of the Association of Food Industries. I am also the president of Hartog Foods International, a company which serves as a domestic and international agent handling a comprehensive line of food products grown and processed in all major producing areas of the world.

The Association of Food Industries is an association composed of approximately 300 companies which import, distribute and/or process a wide variety of food products.

The Association of Food Industries certainly opposes proposals to expand or further complicate the requirements that food products be labeled as to their country of origin.

Current labeling requirements have been onerous, misleading and uneconomic and often a barrier to trade. Major supplier marking is essential to make such requirements even attainable. Shortsighted and unreasonable proposals that those requirements be altered to mandate even more extensive reporting such as listing the country of origin of each ingredient in the product have been raised in this country before.

Such proposals must once again be rejected because of the inherent injustices that their implementation would precipitate by placing an unreasonable and impractical burden upon U.S. processors and foreign suppliers of food products with no corresponding benefit to the consumer.

Consistent with the purpose of the statute, the Customs Service has in certain instances permitted so-called major supply marking to suffice. Customs has endorsed major supply marking for fertilizer, industrial fasteners and orange juice concentrate.

More recently, Customs published notice that it will also supply major supply marking to other fruit juices. These Customs rulings reflect the practical interpretation of expanded labeling requirements which are necessitated if such requirements are to be enforced. Without unnecessarily and unreasonably burdening change.

The method of marking endorsed for these products provides notes to the consumer that the merchandise contains imported products and identifies sources of most imports. Such marking clearly fulfills the purpose of the labeling law.

Proponents of more extensive marking requirements would impede efficient beneficial and established trade in many food products on the erroneous basis that such labeling is required by law. These parties seem to have little concern for the tremendous negative impact that such requirements would have on American food processors and consumers or on our international trading partners.

For example, the Customs Service is currently evaluating comments on a proposal to eliminate the major supplier marking rule

from fruit juices made from foreign concentrate, to require these juices be labeled to indicate all foreign sources of concentrate contained in each package.

For juices such as apple juice, this requirement would create insurmountable trade hurdles. In order to produce consumer acceptable apple juice, producers must procure and blend a variety of domestic and/or imported juices and concentrates. Apple juice is imported from approximately 3 dozen countries with three principal suppliers of the country for nearly two-thirds of the total.

Quantities imported and sources of supply vary depending on United States and foreign crop conditions, seasonal availability and processors blending needs. Any given processor uses concentrate from varying combinations of countries, as availability and blending requirements dictate. Over a period of time a processor could utilize apple juice concentrate from each of the supplying countries.

If actual supplier marking were required, apple juice processors would have few options if they sought to continue their participation in the industry. First, they could purchase and stock numerous labels covering every possible combination of supplying countries and then develop a system to affix them to the appropriate container.

The requisite label would be constantly changing as supplying and blending requirements changed. This solution would add a tremendous cost to these products. A cost which would ultimately be born by the consumer. Indeed, one can assume that this additional cost would be prohibited for some and consumers could be completely deprived of these low cost wholesome products.

Alternatively, processors could restrict their source of supply to a small handful of producing countries and limit their label requirements to combinations of those countries. This approach, too, would be impractical, in that it would leave the processor little opportunity for economical spot purchases or for adjustment in the face of seasonal or climatic fluctuations.

Processors could be expected to purchase most of their requirements from a handful of larger, well-established suppliers causing less significant supplying countries to exit the market. Overall sales of the product would necessarily suffer due to increased prices and/or processors' inability to maintain the consistency of the product.

If actual supplier marking is required for all products or if some more restrictive marking requirement is imposed, our trading partners will justifiably complain that the requirement constitutes a nontariff trade barrier, contrary to article IX of the GATT which specifically provides that in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconvenience which some measure may cause to the commerce and industries of exporting countries should be reduced to a minimum.

Clearly, if U.S. processors cease importing food product from less significant suppliers, because of the complications arising from new marking requirements, those requirements must be viewed as contrary to our obligations under article IX.

Article IX also states that the laws and regulations of contracting parties relating to the marking of imported products shall be

such as to permit compliance without materially reducing their value or unreasonably increasing their cost.

An actual supply and marking requirement could have either or both of these prohibitive effects. First, as we noted, foreign suppliers economic exclusion from the U.S. market should be construed as a material reduction in the value of those suppliers exports to the United States.

In addition to compelling processors to procure and stock a vast number of labels covering every potential combination of supplying countries certainly would unreasonably increase the cost of imported food products. Neither U.S. processors nor consumers would benefit from changes which would require more expensive marking for food product than is currently lawfully mandated.

We must anticipate that adding unreasonable and unjustifiable marking requirements would disrupt trade in many food products. It would necessarily add to the cost of these items and would invite retaliation from valued trading partners. In fact, there is a current and pressing need to simplify and streamline our country-of-origin marking requirements. Many U.S. consumers are misled into believing they are presenting products of foreign origin when they are products which are fundamentally processed in the United States.

There are requirements that products containing 90 percent U.S. raw materials must still be labeled as to foreign content. We are creating a quagmire of requirements, regulations and restrictions which are confusing, misleading, often contradictory and always expensive. U.S. businessmen, consumers and taxpayers deserve better. If our national policy favors international trade as we say it does, why do we make it so unnecessarily complicated to serve the consumers, which, after all, is the business I am in and represent today? That is the business of serving the consumer.

I thank the members of the subcommittee for their careful consideration of this matter of great concern to the Association of Food Industries. Thank you.

[The statement of Mr. Hartog follows:]

STATEMENT OF JACK B. HARTOG,
IMMEDIATE PAST PRESIDENT,
ASSOCIATION OF FOOD INDUSTRIES, INC.

HEARING ON COUNTRY OF ORIGIN
LABELING REQUIREMENTS FOR
IMPORTED MEAT AND OTHER FOOD PRODUCTS
BEFORE THE
SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1988

My name is Jack B. Hartog. I am the immediate past-President and a member of the Board of Directors of the Association of Food Industries, Inc.. I am also the President of Hartog Foods International, Inc., a company which serves as a domestic and international agent handling a comprehensive line of food products grown and processed in all major producing areas of the world.

The Association of Food Industries, Inc. (AFI) is an organization composed of approximately 300 companies which import, distribute, and/or process a wide variety of food products.

AFI strongly opposes proposals to expand or further complicate the requirements that food products be labeled as to their country of origin. AFI submits that current labeling requirements have become onerous, misleading, uneconomic and often a barrier to trade. "Major supplier" marking is essential to make such requirements even attainable. Short-sighted and unreasonable proposals that those requirements be altered to mandate even more extensive reporting, such as listing the country of origin of each ingredient in a product, have been raised and discounted before. Such proposals must once again be rejected because of the inherent injustices that their implementation would precipitate by placing an unreasonable and impracticable burden upon U.S. processors and foreign suppliers of food products with no corresponding benefit to the consumer.

For nearly a century, imports into the United States have been subject to virtually the same country of origin labeling requirements currently codified at 19 U.S.C. §1304. The origin and purpose of the marking requirement were cogently discussed in United States v. Ury, 106 F.2d 28, 29 (2d Cir. 1939):

> The requirement that goods at the time of importation bear marks indicating the country of origin appeared first in the Tariff Act of 1890 (26 Stat. §613) and has been included in all later tariff acts. The purpose was to apprise the public of the foreign origin and thus to confer an advantage on domestic producers of competing goods. Congress was aware that many consumers prefer merchandise produced in this country.

(Emphasis supplied). See also Globemaster, Inc. v. United States, 340 F. Supp. 974, 976 (Cust. Ct. 1972).

Consistent with the purpose of the statute as articulated in Ury, the Customs Service has in certain instances permitted so-called "major supplier" marking to suffice. For example, Customs, in a very questionable ruling, greatly expanded the country of origin marking requirements by determining that

imported honey is not "substantially transformed" in the United States when it is blended and subjected to other processing operations. But even in this instance, the Service recognized that labels which disclose the major countries of origin of the raw honey would substantially meet the requirements of 19 U.S.C. 1304 and Section 134.25 of the Customs Regulations. C.S.D. 84-44 (1983). Quite logically, the Customs Service concluded that "major supplier" marking of blended honey was appropriate and acceptable because: 1) honey was imported from a large number of countries, and 2) depending upon availability and characteristics, honey from varying sources could be blended by the same processor in a short time period.

Applying the same rationale, Customs has similarly endorsed "major supplier" marking for blended fertilizer, C.S.D. 84-50 (1983), industrial fasteners, C.S.D. 84-56 (1983), and orange juice concentrate, C.S.D. 86-19 (1986). Most recently, Customs published notice that it will also apply "major supplier" marking to other fruit juices. 53 Fed. Reg. 20836 (June 7, 1988).[1]

These Customs rulings reflect a practical interpretation of expanded labeling requirements which are necessitated if such requirements are to be enforced without unnecessarily and unreasonably burdening trade. The method of marking endorsed for these products provides practical notice to the consumer that the merchandise contains imported products, and identifies the sources of most imports. Such marking clearly fulfills the purpose of the labeling law.

In contrast, proponents of more extensive marking requirements would impede efficient, beneficial and established trade in many food products on the erroneous basis that such labeling is required by law. These same parties seem to have little concern for the tremendous negative impact that such requirements would have on American food processors and consumers, or on our international trading partners.

For example, the Customs Service is currently evaluating comments on a proposal to eliminate the "major supplier" marking rule for fruit juices made from foreign concentrate, and to require that these juices be labeled to indicate all foreign sources of concentrate contained in each package.[2] For juices such as apple juice, one of the principal products which my company handles, this requirement would create insurmountable trade hurdles. In order to produce consumer acceptable apple juice, processors must procure and blend a variety of domestic and/or imported juices and concentrates. Apple juice is imported from approximately three dozen countries, with three principal suppliers accounting for nearly two-thirds of the total.[3] Quantities imported and sources of supply vary, depending upon U.S. and foreign crop conditions, seasonal availability and, of course, processors' blending needs. Any given processor uses concentrate from varying combinations of countries as availability and blending requirements dictate. Over a period of time, a processor could utilize apple juice concentrate from each

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1 In a separate notice published the same day, Customs proposed to eliminate the "major supplier" marking rule for fruit juices made from foreign concentrate, and to require that these juices be labeled to indicate all foreign sources of concentrate contained in each package, 53 Fed. Reg. 20869 (June 7, 1988).

2 See n.1.

3 Bureau of the Census data for 1987 show that Argentina, West Germany and Austria accounted for nearly two-thirds of all apple juice imports.

of the supplying countries.

If actual supplier marking were required, apple juice processors would have few options if they sought to continue their participation in the industry. First, they could purchase and stock numerous labels covering every possible combination of supplying countries and then develop a system to affix them to the appropriate container. The requisite label would be constantly changing as supply and blending requirements changed. This "solution" would add a tremendous cost to these products, a cost which would ultimately be borne by the consumer. Indeed, one can assume that this additional cost would be prohibitive for some, and that consumers could be completely deprived of these low-cost, wholesome products.

Alternatively, processors could restrict their source of supply to a small handful of producing countries, and limit their label requirements to combinations of those countries. This approach, too, would be impractical in that it would leave the processor little opportunity for economical "spot" purchases or for adjustment in the face of seasonal or climatic fluctuations. Processors could be expected to purchase most of their requirements from a handful of larger, well-established suppliers, causing less significant supplying countries to exit the market. Overall sales of the product would necessarily suffer due to increased prices and/or processors' inability to maintain the consistency of the product.

The tremendous costs which would result from actual supplier marking are not outweighed by any corresponding benefit to the consumer. Indeed, most labels could be expected to resemble a geographical index of countries producing apple juice concentrate. Labels listing all actual suppliers of concentrate, no matter how insignificant the quantity, would be meaningless or confusing to the consumer. These labels would be of no greater value to the average consumer than a label listing the processor's "major suppliers" of imported concentrate.

By the same token, proposals that food processors list the country of origin of each ingredient contained in a particular package are unreasonable and should not be heeded. These proposals reverses decades of precedent by completely ignoring the relevant inquiry, i.e., in what country did the ingredients lose their identity and become substantially transformed into the product sold to the U.S. consumer? "Ingredient labeling" would require a meaningless, and in many cases lengthy, recitation of source countries, all at an inestimably great cost to U.S. processors and, undoubtedly, U.S. consumers.

Some parties have suggested that more extensive marking requirements are necessary to protect the public health. This claim is primarily predicated upon the assumption that requiring additional country of origin labeling would facilitate monitoring of imported food products by the Food and Drug Administration. This position is simply not supportable. Imported food products are routinely subjected to rigorous FDA testing for pesticide residues when offered for entry. The work of the FDA is most reliably and appropriately conducted at the U.S. border, where products containing the offending substances can be denied entry. It would not be either practical or effective to expect FDA to wait until a product was processed and packaged for retail distribution before it determined whether the product contained prohibited substances.

The Food and Drug Administration itself has categorically confirmed that this is the case. In comments filed with the Customs Service with respect to the proposal to require "actual supplier" marking for fruit juices containing imported juice, the FDA stated that "listing the country of origin on the labeling of retail packages of juices will not be of assistance to FDA'S

pesticide monitoring efforts"[4] As actual investigations have made evident,[5] FDA's efforts to monitor imported food products and to protect the public health are not reliant upon or even assisted by country of origin marking requirements.

In fact, "actual supplier" marking could, in certain instances, misinform a consumer who is genuinely concerned about pesticides used in particular countries. Using apple juice as an example, "actual supplier" marking would inform the consumer of the sources of apple juice contained in a container, but it would not necessarily reveal the countries in which apples used to make the juice were grown. This is particularly likely to occur in areas such as Europe, where juice apples may be grown in one country and processed into juice in another country.

Allegations that marking requirements more extensive than those currently in effect are needed to protect the public health are uninformed and unsubstantiated. These unfounded allegations must not form the basis for establishing more elaborate marking requirements than currently exist.

In addition to the anticipated negative effects on U.S. consumers and processors, "actual supplier" marking would also be contrary to U.S. foreign policy objectives and international commitments. First, "actual supplier" marking is contrary to U.S. foreign policy objectives in that it would unreasonably and unjustifiably burden or impede imports from scores of countries which have historically supplied needed food products to the United States. U.S. processors faced with the costly and complex requirement of listing all supplying countries would naturally and inevitably avoid smaller supplying countries and restrict procurement to a limited number of large suppliers. It would send conflicting messages to small or developing countries if the U.S. embraces them as political allies and trading partners, encouraging their economic development, while simultaneously erecting technical barriers which discourage legitimate trade. U.S. practice should not be permitted to contradict our foreign policy objectives, particularly when the action contemplated would adversely impact important U.S. trading partners and allies.

Second, if "actual supplier" marking is required for all products, or if some more restrictive marking requirement is imposed, our trading partners will justifiably complain that the requirement constitutes a nontariff trade barrier contrary to and actionable under GATT. Article IX of the GATT, which concerns "Marks of Origin," specifically provides that "in adopting and

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4 Letter from John R. Wessel, Director, Contaminated Policy Staff, FDA to Marvin Americk, Chief, Value, Special Programs and Admissibility Branch, U.S. Customs Service, dated August 11, 1988 (emphasis supplied).

5 For example, allegations that banned pesticides were being used on foreign fruit destined for shipment to the U.S. in the form of juice concentrates led FDA to conduct a "special investigation" of imported apple juice concentrate in 1985. From March 6, 1985 to May 8, 1985, FDA district offices were instructed to sample each shipment of imported apple juice concentrate. FDA collected 267 samples from 18 countries, testing each for the chemical residues that FDA would usually test. "In addition, each sample was tested for mercury and daminozide because of allegations that levels of these chemicals, not usually tested for, were present in imported apple juice concentrate." In no instance were unacceptable residue levels found. "Pesticides: FDA's Investigation of Imported Apple Juice Concentrate," GAO/RCED-86-214 FS (1986).

enforcing laws and regulations relating to marks of origin, the difficulties and inconvenience which some measures may cause to the commerce and industries of exporting countries should be reduced to a minimum." Clearly, if U.S. processors cease importing food products from less significant suppliers because of the complications arising from new marking requirements, those requirements must be viewed as contrary to our obligations under Article IX.

Article IX also states that "[t]he laws and regulations of contracting parties relating to the marking of imported products shall be such as to permit compliance without ... materially reducing their value, or unreasonably increasing their cost." An actual supplier marking requirement could have either or both of these prohibited effects. First, as we have noted, foreign suppliers' economic exclusion from the U.S. market should be construed as a material reduction in the value of those suppliers' exports to the United States. In addition, compelling processors to procure and stock a vast number of labels covering every potential combination of supplying countries certainly would unreasonably increase the cost of imported food products.

Neither U.S. processors nor consumers would benefit from changes which would require more extensive country of origin marking for food products than is currently lawfully mandated. We must anticipate that adding unreasonable and unjustifiable marking requirements would disrupt trade in many food products, would necessarily add to the costs of these items and would invite retaliation from our valued trading partners.

In fact there is a current and pressing need to simplify and streamline our country of origin marking requirements. We are misleading many U.S. consumers by indicating that products which are extensively and fundamentally processed in the U.S. are, in fact, of foreign origin. There are requirements that products containing 90% U.S. raw materials must still be labelled as to foreign content. We are creating a quagmire of requirements, regulations and restrictions which are confusing, misleading, often contradictory and always expensive. U.S. businessmen, consumers and taxpayers deserve better. If our national policy favors international trade - as we say it does - why do we make it so unnecessarily complicated to serve the consumers, which, after all, is the business I'm in and represent today.

I thank the members of the Subcommittee for their careful consideration of this matter of grave concern to the Association of Food Industries.

Chairman GIBBONS. Thank you, sir. Now up for Procter & Gamble, Mr. Elliott.

STATEMENT OF DAVID J. ELLIOTT, ASSOCIATE DIRECTOR, INTERNATIONAL DEPARTMENT, PROCTER & GAMBLE CO., ACCOMPANIED BY GREGORY W. WHITE, ASSOCIATE DIRECTOR FOR PRODUCT SUPPLY, DUNCAN HINES PRODUCTS

Mr. ELLIOTT. With your agreement I will summarize my remarks and ask that my complete statement be included in the record.

Chairman GIBBONS. Yes.

Mr. ELLIOTT. I am David Elliott, associate director of the Procter & Gamble Co. With me to help answer questions is Gregory White, who is an expert on purchasing food ingredients and packaging. One labeling proposal considered and discarded during congressional consideration of the trade bill this past year required identification of the specific origin of each foreign ingredient.

A look at the ingredient statement on the flat box of the brownie mix shows this is virtually impossible to accomplish. For example, many of the flavors are proprietary formulas that are kept secret by our flavor suppliers to prevent their competitors from stealing their business. In the unlikely event that our suppliers disclosed to us the information about the ingredients and their countries of origin, we would simply have no way of verifying the accuracy of the information.

Moving on to other items on the ingredient statement, the chocolate, coconut oil, sugar and other ingredients come from dozens of different countries. Identifying changes of source country, segregating inventories, including providing separate storage facilities, tracking the different origins of material through our production process and obtaining new labels would be inconceivably costly, and as a practical matter probably impossible to accomplish.

The alternative, keeping a supply of different preprinted labels is almost as ludicrous. There are over 1 million possible permutations of the labels to these brownies alone on that basis. Most of the labels would never be used, which I think is a rather undescribable waste.

Chairman GIBBONS. Is this a put-on label? Is that——

Mr. ELLIOTT. We are going to get to the one on the box in a few moments. The flat one is the one that is now as it is.

Chairman GIBBONS. This is the way you think it would have to be.

Mr. ELLIOTT. This is what it would look like under more flexible interpretation than the one I just described.

Chairman GIBBONS. You need a Ph.D. to understand that one.

Mr. ELLIOTT. Some years ago Customs considered requiring marking individual country origins of the beans in ground roast coffee. The cost would have been in the range of $50 to $100 million a year to the coffee processing industry, which would inevitably have been passed on to the consumer.

If this type of labeling were applied to all foods with foreign origin ingredients, it would appear likely to cost the consumer billions of dollars every year.

Very likely, some food manufacturers would simply have to discontinue at least some of their products.

Enforcement would obviously be a major burden for the FDA. Resources would have to be devoted from higher priorities, which is both undesirable and unlikely to happen. And in response to a question you asked the previous panel, sir, in my experience both as a manufacturing manager, as a purchaser of materials and as someone who has some knowledge of international trade, the way to solve health and safety problems on ingredients is by fixing them at the source, preferably in the foreign country. If you cannot do that, then use inspection by FDA, USDA at the port of importation. It is a hopeless thing to try to accomplish once you have got it in the box and hope that the consumer would have the knowledge to pick—that this is safe, this is not safe. This is a nonsolution to the problem.

The net result of such a labeling would be that law abiding manufacturers would incur added costs and supply disruptions. The unscrupulous wouldn't be burdened and could unfairly underprice the legitimate competitors in the marketplace.

This Congress also rejected another proposal requiring regulatory decisions on what ingredients need to be identified. Obviously, we could not know in advance what these regulations would say. So we developed a conceptual label based on the so-called shot gun approach, sometimes used by Customs for products of mixed origin. As you can see, the result absorbs an entire panel of fine print without even including origins of flavor components, and assuming that any consumer took the time to read all this stuff, they would not learn whether that particular box contained anything from any specific country.

Knowing consumer needs and interests is critical to P&G's success. We make a very great deal of effort to know what is on the consumer's mind about our products. All of them bear a different 800 telephone number so the consumers can call us toll free to make comments or ask questions. We hear about many, many things. Last year there were over 325,000 requests for information about our products.

We had many questions about ingredients. We got 23 telephone calls asking about the amount of vitamin C in our soft drinks. But so far as foreign origins are concerned, we are like the Maytag repairman. We are still waiting for that call and we are growing old. The American people appear to have virtually no real interest in the matter.

Finally, these proposals are, as Mr. Hartog said, in our mind inconsistent with article IX of the GATT, which requires that marking laws that cause difficulties and inconvenience for the commerce of exporting countries should be reduced to a minimum and should permit compliance without materially reducing the value or unreasonably increasing the cost of imported goods. This also appears to be inconsistent with article II which in general requires nondiscriminatory applications of laws and regulations.

I know that GATT bashing has been a rather popular sport of late, so perhaps it is worth considering the implications of U.S. violations in this area.

First of all, we would simply be inviting other countries to respond to our disadvantage on our exports of food ingredients.

Second, we would violate the standstill provisions of the Uruguay round and reduce our leverage in what I believe to be highly critical negotiations important to the long-term future of this country.

Third, we would undermine our efforts to strengthen the GATT system and given concerns about our violations by other countries we should be cautious about erecting a glass house while tuning up our slingshot.

Ultimately the American economy, which is totally intertwined with the rest of the world, depends upon the disciplines of the GATT system. That system is a camel that is already carrying too many straws. We should be extremely cautious about adding to the load.

Thank you for this opportunity to discuss these matters. We will be pleased to try to answer your questions.

[The prepared statement follows:]

STATEMENT OF

THE PROCTER & GAMBLE COMPANY

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS & MEANS

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

ON

COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR FOOD PRODUCTS

SEPTEMBER 27, 1988

By: David J. Elliott, Associate Director,
International Department
Gregory W. White, Associate Director
Product Supply, Duncan Hines Products

Good afternoon, Mr. Chairman. My name is David J. Elliott, Associate Director, International Department of The Procter & Gamble Company's Corporate Purchases Division. I am also Chairman of the Joint Industry Group's Rules of Origin Committee. I am accompanied by Mr. Gregory W. White, Associate Director, Product Supply for Procter & Gamble's Duncan Hines line of baking mixes. Mr. White has particular expertise on the issues involved in purchasing ingredients and packaging for food products and is with me to answer your questions in that area. We are most appreciative of this opportunity to discuss country-of-origin labeling requirements with you.

Before discussing the various proposals on identification of foreign origins of food ingredients considered by the Congress during its deliberations on the Omnibus Trade Bill, a discussion of the various purposes of existing labels would probably be helpful. In one way or another, the purposes of these labels are to inform the consumer.

PURPOSE OF FOOD LABELS -- INFORM CONSUMERS

For instance, the front panel of our Duncan Hines Chocolate Gourmet Truffle Brownie mix, in addition to bearing legally required material (i.e. product identity and weight), is intended to communicate the image of a top quality product (see Attachment One). This is important to getting consumers to try the product, and if it fulfills their expectations, to buy it again. If this communication fails, the product will not sell and everything else about the label quickly becomes irrelevant. The top and bottom panels provide more information on the image and specifics of the product as well as a necessary place to mark the price and the U.P.C. scanner symbol. The back of the label contains the baking directions and pictorial depictions of alternative recipes. One end panel contains information to help consumers bake the best possible Brownies as well as providing an "800" number for consumers to call if they have any questions or comments - a very important tool in helping us stay in touch with our customers' needs and interests. The other end panel contains ingredient information that is required by law and nutritional information that is valued by consumers.

Our market place experience, as well as our comprehensive and thorough market research program, already indicates an information overload. We believe we currently provide more technical information than the consumer is readily able to absorb.

INGREDIENT ORIGIN LABELING - IMPOSSIBLE, INACCURATE, COSTLY

One proposal considered and discarded during debate on the trade bill was that the specific origin of each ingredient be identified. As a practical matter, this is probably virtually impossible to accomplish.

Let's take a look at the ingredient statement on the Brownie label to understand why this is true. For example, the natural and artificial flavors are proprietary formulations of independent suppliers. They guard their flavor formulas very carefully in order to prevent competition from stealing their business, since these formulas cannot be protected by patents. In the unlikely event that they would disclose the origin countries of the various ingredients, we would have no way of verifying the accuracy of the information.

Moving to other items on the label, the chocolate, coconut oil, cocoas, chocolate chips, sugar and possibly other ingredients can all come from several different countries. For example, sugar is imported ;from as many as 40 countries, and cocoa from as many as 30. The process of identifying changes, segregating inventories, tracking the materials in the production process and obtaining new labels - which have a lead time of 8 to 12 weeks to obtain - is inconceivably costly and, as a practical matter, impossible. The alternative, keeping a supply of pre-printed labels to cover origin changes is about as ludicrous - while we have no way of knowing the exact number, some rough calculations indicate there are over a million possible permutations of labels for these Brownies alone. Such an inventory, with most of the labels never being used and therefore having to be scrapped, would be an indescribable economic waste.

INGREDIENT ORIGIN LABELING - CONSUMERS TO BEAR BURDEN

It is notable that when marking individual country origins for the beans in ground roast coffee was being considered by the U.S. Customs Service, it was estimated that the cost to coffee producers in the United States was in the range of $50-$100 million annually. These costs would, inevitably, have been borne by the consumer. Undoubtedly the consumer costs, if this type of labeling were applied to all foods with foreign origin ingredients, could amount to many billions of dollars every year. There is also a possibility that compliance would be so onerous that food manufacturers would simply discontinue some of their products.

It should be immediately apparent that effective enforcement would be a major burden for the Food & Drug Administration. Resources would have to be transferred from areas of higher priority, which as a practical matter is unlikely to happen. In addition, to the extent that there should be concern about health and safety matters on food ingredients, enforcement should be at the border, where it presently is, not after they have been incorporated into finished goods.

The net result of the proposal would likely be that law abiding manufacturers would make a conscientious effort to comply, incurring the additional costs and supply disruptions along the way. The unscrupulous, on the other hand, would not incur those burdens and would be able to unfairly underprice their legitimate competitors in the marketplace.

This Congress has also considered and rejected another proposal, requiring regulatory decisions as to what ingredients and proportions are significant and have to be identified. Obviously, we cannot know what these standards would have been. However, we developed a conceptual label for these Brownies derived from the so-called "shot gun" standards for products of mixed origins. As you can see from Attachment Two, the results are not very constructive. Listing all possible origins - without any necessity that any ingredients actually come from any given country - takes up an entire panel of fine print. Assuming any consumer interest in the subject - and we don't believe there is any - who is going to take the time to read this detailed material? And at the end they would not know whether that particular box contained anything from any specific country. In reality, the probable result would be that the consumer will pay even less attention to all the fine print on the package and not pick up information that is important - such as how to bake the product or potentially significant nutritional data.

While the burdens are not quite as great as in the initial proposal, even this more flexible approach creates serious problems in the areas of compliance, enforcement and unscrupulous competition.

CONSUMERS NEEDS AND INTERESTS - THE IMPORTANT ISSUE

Next we turn to the issue of consumer needs and interests. P&G is a consumer products company and we long ago learned that one of the things critical to our business success is how well we meet consumers' needs. As I believe is well known, our market research program makes extensive efforts to identify consumers interests relative to our products. All of our products have a different "800" number so that consumers can make toll free telephone calls from anywhere to discuss their interests. While we hear about many things, I can assure you that so far as foreign origins are concerned, our Consumer Services people are like the Maytag repairman - they're growing old waiting for that call. So far as we can determine, the American people have virtually no interest in the matter.

INGREDIENT LABELING - INCONSISTENT WITH GATT

Mr. Chairman, you also asked for comments about the consistency of these proposals with our international commitments, particularly under the General Agreement on Tariffs & Trade. First of all, by raising the cost and discouraging the use of foreign ingredients, they clearly create a barrier to trade. As such, they are

inconsistent with Article IX of the GATT, and particularly paragraphs 2. and 4. which state:

"Marks of Origin

"2. The contracting parties recognize that, in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum, due regard being had to the necessity of protecting consumers against fraudulent of misleading indications.

"4. The laws and regulations of contracting parties relating to the marking of imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost."

They also appear to be inconsistent with Article II, paragraphs 1. and 4.

"National Treatment on Internal Taxation and Regulation

"1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production."

"4. The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the applications of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product." (Emphasis added.)

Since "GATT bashing" has, in some quarters, become a political sport, it is worth considering the implications of a U.S. violation in this area. First of all, we are simply inviting other countries to respond in kind - which would injure our already beleaguered farmers.

Second, we would be in violation of the Standstill provisions of the Uruguay Round trade negotiations. This would undermine our leverage in these critical negotiations.

Third, it would undermine our efforts to strengthen the GATT system, which depends upon voluntary compliance based upon mutual self-interest. Given our concerns about violations by other countries, we should be cautious about erecting a glass house while tuning up our slingshot.

Ultimately the American economy, which is intertwined with those of the other countries of the world in ways that are difficult to comprehend in totality, is dependent upon the disciplines of the GATT system. That system is a camel that is already carrying too many straws. We should be extremely cautious about adding to the load.

Thank you again for your courtesy in providing us with this opportunity to discuss these matters. We will be pleased to try to answer your questions.

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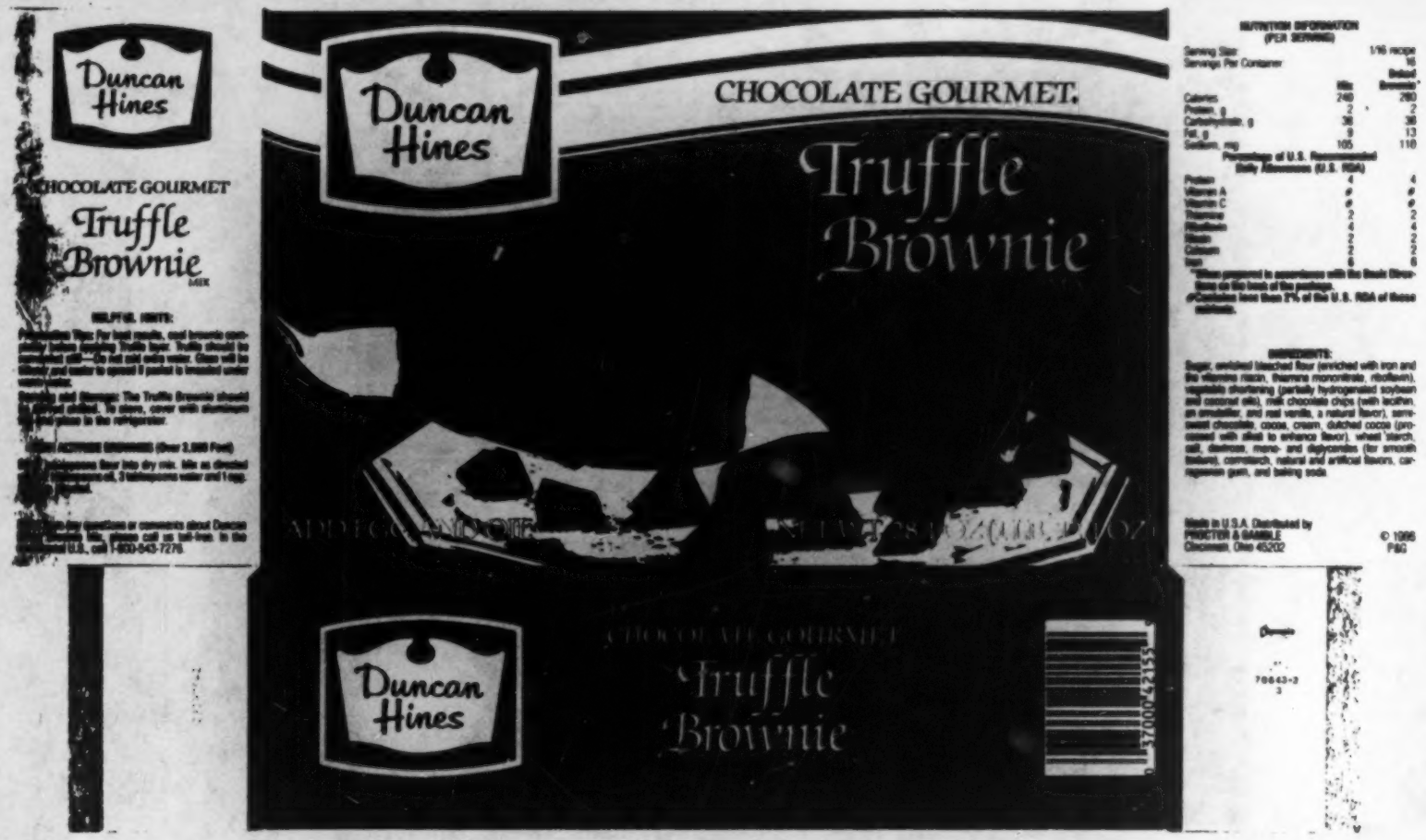

Duncan Hines
CHOCOLATE GOURMET
Truffle Brownie
MIX
HELPFUL HINTS:
Duncan Hines
CHOCOLATE GOURMET.
Truffle Brownie
NUTRITION INFORMATION
(PER SERVING)
Serving Size 1/16 recipe
Servings Per Container 16
Calories 240 260
Protein, g 2 2
Carbohydrate, g 36 36
Fat, g 9 13
Sodium, mg 105 110
Percentage of U.S. Recommended
Daily Allowances (U.S. RDA)
Protein 4 4
Vitamin A 0 0
Vitamin C 0 0
Thiamine 2 2
Riboflavin 4 4
Niacin 2 2
Calcium 2 2
Iron 4 6
INGREDIENTS:
Sugar, enriched bleached flour (enriched with iron and the vitamins niacin, thiamine mononitrate, riboflavin), vegetable shortening (partially hydrogenated soybean and coconut oils), milk chocolate chips (with lecithin, an emulsifier, and real vanilla, a natural flavor), semi-sweet chocolate, cocoa, cream, dutched cocoa (processed with alkali to enhance flavor), wheat starch, salt, dextrose, mono- and diglycerides (for smooth texture), cornstarch, natural and artificial flavors, carrageenan gum, and baking soda
Made in U.S.A. Distributed by
PROCTER & GAMBLE
Cincinnati, Ohio 45202
© 1996
P&G
Duncan Hines
CHOCOLATE GOURMET
Truffle Brownie

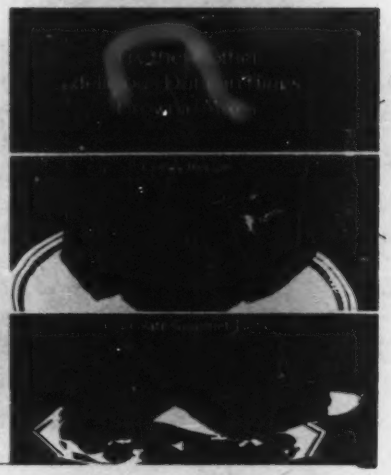
ATT. EXH. - 1

Duncan Hines

Truffle Brownie

Includes: Brownie Mix, Chocolate Truffle Mix and natural Chocolate flavor Glaze

You will need: Oil and Egg



EASY DIRECTIONS (see side panel for helpful hints)

Makes 16 Large or 36 Small Brownies

Prepare

Use metal or glass 9" x 9" or 8" x 8" pan.
Preheat oven to 350°F.
Grease bottom only of pan with shortening.*

Mix

BASE LAYER Cut open Brownie Mix and combine in large bowl with:

1/4 Cup Oil** 1 Egg 1/4 Cup Water

Stir with a large spoon until well blended (about 50 strokes or 1 minute). DO NOT use an electric mixer. Real chocolate chips will still be visible after mixing.
Spread batter into greased pan.

Bake

On rack closest to center of oven.
Bake 23-26 min. for 9" x 9" pan OR 27-30 min. for 8" x 8" pan.
Do not overbake. Overbaking causes dryness.

Cool about half hour or refrigerate 15 minutes.

Chocolate Truffle Layer

Combine in small bowl: Chocolate Truffle Mix 1/4 cup water
Stir vinegously with large spoon until well blended (about 70 strokes). DO NOT use an electric mixer.
Spread Chocolate Truffle evenly over cooled Brownie.

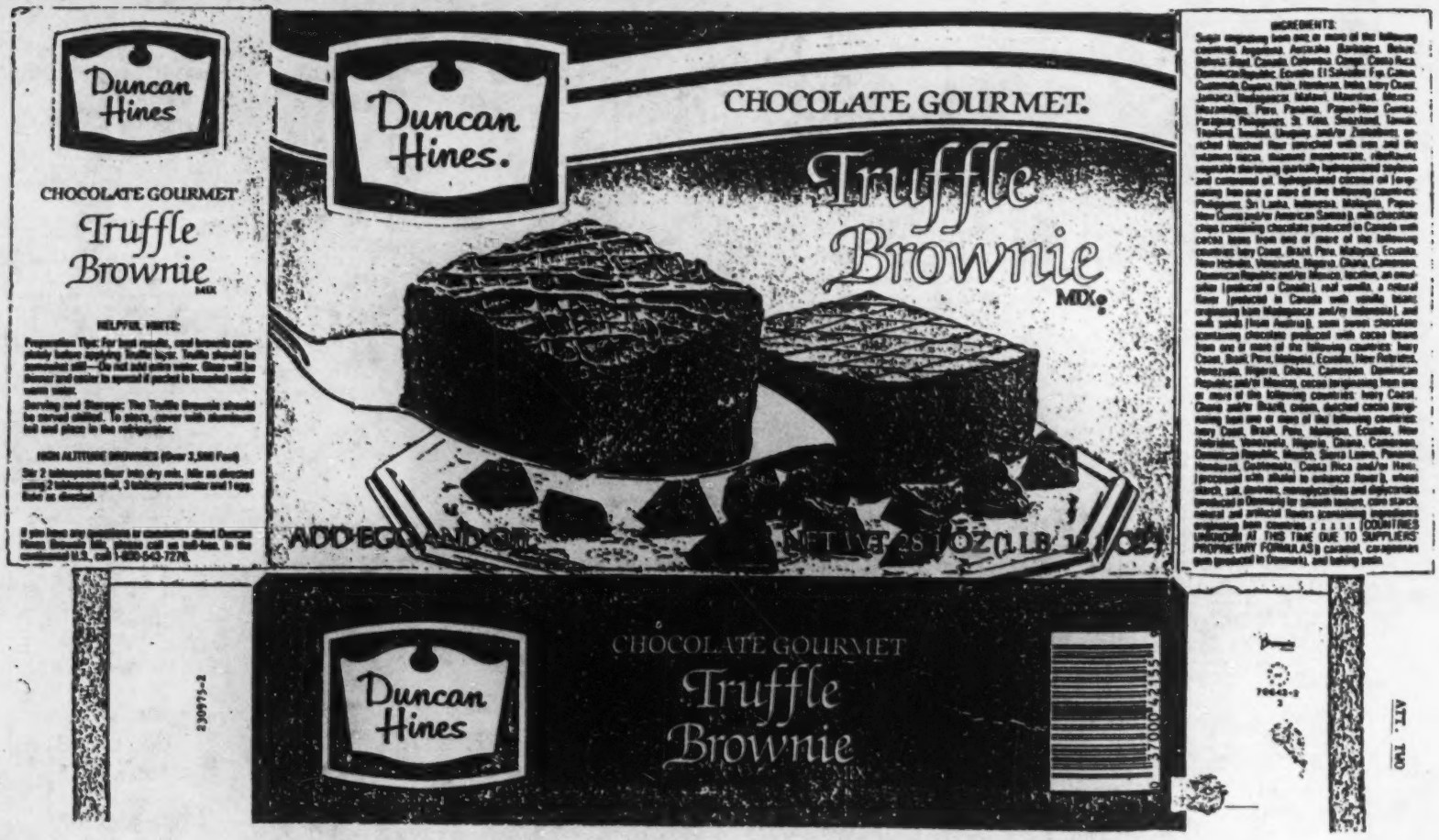
Glaze

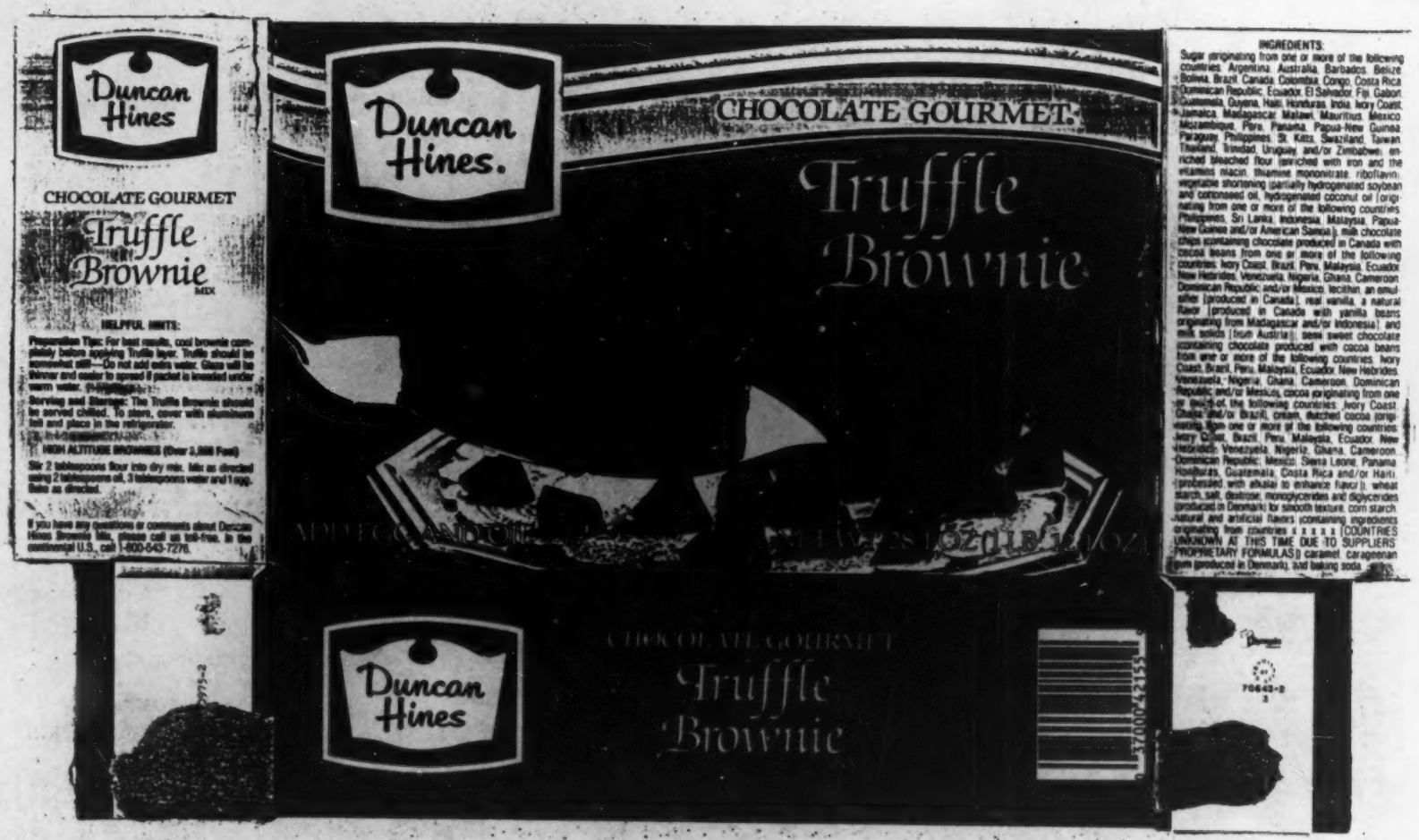
Knead glaze packet 15 seconds before opening.
Select one of the following glaze decorating choices:
EITHER: Cut corner of packet to form a small opening. Drizzle glaze over chocolate truffle layer.
OR: Spread glaze evenly over chocolate truffle layer. Refrigerate to harden glaze. Pull knife through glaze to make pattern shown.

Serve

Serve chilled. Store in refrigerator.

*Crisco® Shortening recommended **Crisco® Oil or Puritan® Oil recommended


Duncan Hines
CHOCOLATE GOURMET
Truffle Brownie
MIX
HELPFUL HINTS:
Duncan Hines.
CHOCOLATE GOURMET.
Truffle Brownie
MIX
ADD EGG AND OIL
INGREDIENTS:
Duncan Hines
CHOCOLATE GOURMET
Truffle Brownie
AT. TWO


Duncan Hines
CHOCOLATE GOURMET
Truffle Brownie
MIX
HELPFUL HINTS:
Preparation Tips: For best results, cool brownie completely before applying Truffle layer. Truffle should be somewhat stiff—Do not add extra water. Glaze will be thinner and easier to spread if packet is kneaded under warm water.
Serving and Storage: The Truffle Brownie should be served chilled. To store, cover with aluminum foil and place in the refrigerator.
HIGH ALTITUDE BROWNIES (Over 2,500 Feet)
Stir 2 tablespoons flour into dry mix. Mix as directed using 2 tablespoons oil, 3 tablespoons water and 1 egg. Bake as directed.
If you have any questions or comments about Duncan Hines Brownie Mix, please call us toll-free, in the continental U.S., call 1-800-543-7276.
Duncan Hines.
CHOCOLATE GOURMET
Truffle Brownie
INGREDIENTS:
Sugar originating from one or more of the following countries: Argentina, Australia, Barbados, Belize, Bolivia, Brazil, Canada, Colombia, Congo, Costa Rica, Dominican Republic, Ecuador, El Salvador, Fiji, Gabon, Guatemala, Guyana, Haiti, Honduras, India, Ivory Coast, Jamaica, Madagascar, Malawi, Mauritius, Mexico, Mozambique, Peru, Panama, Papua-New Guinea, Paraguay, Philippines, St. Kitts, Swaziland, Taiwan, Thailand, Trinidad, Uruguay, and/or Zimbabwe); enriched bleached flour (enriched with iron and the vitamins niacin, thiamine mononitrate, riboflavin); vegetable shortening (partially hydrogenated soybean and cottonseed oil, hydrogenated coconut oil [originating from one or more of the following countries: Philippines, Sri Lanka, Indonesia, Malaysia, Papua-New Guinea and/or American Samoa]); milk chocolate chips (containing chocolate produced in Canada with cocoa beans from one or more of the following countries: Ivory Coast, Brazil, Peru, Malaysia, Ecuador, New Hebrides, Venezuela, Nigeria, Ghana, Cameroon, Dominican Republic and/or Mexico), lecithin (an emulsifier [produced in Canada]), real vanilla, a natural flavor (produced in Canada with vanilla beans originating from Madagascar and/or Indonesia); and milk solids (from Austria); semi sweet chocolate (containing chocolate produced with cocoa beans from one or more of the following countries: Ivory Coast, Brazil, Peru, Malaysia, Ecuador, New Hebrides, Venezuela, Nigeria, Ghana, Cameroon, Dominican Republic and/or Mexico), cocoa (originating from one or more of the following countries: Ivory Coast, Ghana and/or Brazil), cream, dutched cocoa (processing from one or more of the following countries: Ivory Coast, Brazil, Peru, Malaysia, Ecuador, New Hebrides, Venezuela, Nigeria, Ghana, Cameroon, Dominican Republic, Mexico, Sierra Leone, Panama, Honduras, Guatemala, Costa Rica and/or Haiti [processed with alkalai to enhance flavor]), wheat starch, salt, dextrose, monoglycerides and diglycerides (produced in Denmark) for smooth texture, corn starch, natural and artificial flavors (containing ingredients originating from countries 1 2 3 4 5 [COUNTRIES UNKNOWN AT THIS TIME DUE TO SUPPLIERS PROPRIETARY FORMULAS]) caramel, carageenan gum (produced in Denmark), and baking soda.
70640-2
3

Chairman GIBBONS. Thank you, Mr. Elliott.

Mr. Graham of the National Food Processors Association.

STATEMENT OF LAWRENCE T. GRAHAM, EXECUTIVE VICE PRESIDENT, NATIONAL FOOD PROCESSORS ASSOCIATION, ACCOMPANIED BY LEONARD LOBRED, DIRECTOR OF INTERNATIONAL TRADE

Mr. GRAHAM. Thank you, Mr. Chairman.

I am Larry Graham, the executive vice president of the National Food Processors. I am here today with Leonard Lobred, our director of international trade.

I have a number of points and I will summarize.

We represent the food processing industry. We have approximately 600 member companies. Most of the major food companies are represented in our association. We appreciate the opportunity to appear here today to express the concerns of our membership about the direction that both Congress and the administration are taking in this issue.

We are particularly concerned about some of the increasing number of country-of-origin rulings from the U.S. Customs Service and which go far beyond the requirements of present law. We think some of the developments we see are impractical, costly, and they are not going to provide any good information to consumers.

We have no problems with the way current law is structured, requiring labeling for products which are legitimately foreign products—that kind of information is important to consumers. However, in cases where products or ingredients of foreign origin are further processed and substantially transformed in the United States, we believe that such labeling should not be required. We think to do that punishes the U.S. manufacturers and workers and it acts as a serious disincentive to the American food industry.

We are concerned that if Customs continues this way, many food companies are going to be forced to stock and use a number of labels differing only in the country of origin. That is administratively difficult for the food industry and extremely expensive.

We think the Customs Service should abandon this direction it is taking which only serves to hamper legitimate U.S. manufacturing operations.

The idea that products containing even small amounts of imported ingredients must be labeled doesn't really make sense. In many cases the ingredients in question aren't even available from domestic sources and must be imported, in many instances from multiple sources. Country-of-origin labeling eliminates competition for lower cost ingredients by eliminating foreign source alternative supplies.

The food market is global and we are operating in a global market. If U.S. companies are to remain competitive, they must be able to obtain supplies from the most economical sources.

Other reasons cited for country-of-origin-type labeling are reasons to do with the consumer's right to know and possible health-related issues. Our surveys have shown that consumers are far more concerned about other aspects of food-purchasing decisions, such as cost and quality of the product, convenience, nutrition and that sort of thing.

As far as the health concerns, as you are aware, the Secretary of Health and Human Services wrote a letter saying that requiring a labeling distinction between foreign and domestic ingredients in food products cannot be justified on a public health basis.

U.S. food manufacturers use many foreign products and ingredients in responding to consumer demands for new and varied products. It is often the case that the sources of supply change during the course of a year, depending on price and availability. To require a label change any time an ingredient supplier changes is impractical. Sometimes actual countries of origin are even unknown or unknowable where many companies are involved in shipments or where blending or mixing are practiced. Also in times of temporary domestic shortage of an ingredient, the flexibility of foreign sourcing is important to us.

So we are concerned about these new country-of-origin rules because we think they are impractical, costly, and we don't see the consumer benefit. The Government, the Department of Health and Human Services and the U.S. Trade Representative have agreed with us. We think this imposes a trade barrier and invites foreign retaliation.

Chairman GIBBONS. Thank you.

[The statement of Mr. Graham follows:]

Statement of the
National Food Processors Association
Before the
Subcommittee on Trade
of the
House Committee on Ways and Means
on
Country of Origin Labeling for Food & Meat Products
September 27, 1988

My name is Lawrence Graham and I am the Executive Vice President of the National Food Processors Association.

The National Food Processors Association (NFPA) is a scientifically and technically based trade association that represents about 600 member companies nationwide including most of the major food processing companies in the United States. Our member companies pack processed-prepared fruits, vegetables, meats, fish and specialty products including canned, frozen, aseptic, dehydrated, pickled and other preserved food items. Also included among the association's members are companies that provide equipment, supplies and services to the food processing industry.

We appreciate the opportunity to appear today to express the concerns of our membership about the direction which both the Congress and the Administration appear to be taking in regards to country of origin labeling of food products. For many years our members felt they had a good understanding of the requirements of current law and that these laws and their implementation worked fairly well. Now, however, the U.S. Customs Service has begun to make an increasing number of country of origin rulings which we feel go beyond the requirements of current law and which are placing serious burdens on certain segments of the food industry. Similarly, there have been continuing efforts by Congress to enact new country of origin laws which we feel are totally impractical and which would also be very costly to the domestic food processing industry without providing any useful information to consumers.

Current law requires country of origin labeling for finished food products which are ready for retail sale. The law also requires such labeling for products which receive further processing after being imported but which are not "substantially transformed." We agree with this law, feel that it is understandable, and feel that it is working well and should not be changed. It provides consumers with information about where products were made. However, in cases where products or ingredients of foreign origin are further processed and "substantially transformed" in the United States such labeling should not be required. To do so would be to punish U.S. manufacturers and workers and it acts as a serious disincentive to the American food industry.

We feel that the U.S. Customs Service has, in recent years, been making an increasing number of findings which penalize U.S. manufacturers who are using foreign ingredients in their products, but who are substantially transforming the product. Canning and most other processes are not mere repackaging. Canning is a method of preserving food by the scientific application of heat. Most processed foods undergo scientifically-based transformation. We are not certain why the Customs Service has changed its focus, but we are concerned that if they continue in their current direction many food companies will be forced to stock and use a number of labels differing only in the country of origin. To do so would be administratively difficult and would be expensive. Such a course of action by Customs will act as a growing disincentive to domestic food manufacturers who each year put out thousands of new products, many of which necessarily include foreign ingredients. Such a disincentive will obviously reduce food plant expansion, capital investment and new employment. We ask that the agency abandon the new direction it is taking which only serves to hamper legitimate U.S. manufacturing operations employing U.S. workers.

At the same time, we are also concerned about the repeated efforts by Congress to enact varying types of country of origin legislation, many of which would prove unworkable, but that in any case would be burdensome to domestic businesses. For instance, the idea that products containing even small amounts of imported ingredients must be labeled to show these

ingredients simply makes no sense and provides no consumer benefit. In many cases, the ingredients in question aren't even available from domestic sources and must be imported, in many instances from multiple sources.

Also, cost is a major factor. We are operating in a global market for food products, just as we are for most other consumer goods. If U.S. companies are to remain competitive they must be able to obtain supplies from the most economical sources. The misguided protectionist notion that trying to exclude foreign products and ingredients will somehow help various segments of the U.S. economy is wrong. We can only succeed in the long run if we are able to compete effectively with others in the world marketplace.

At various times, proponents of country of origin labeling legislation have made the argument their plans were not the result of a desire to protect U.S. industries from foreign competition. They cite reasons such as the consumer's right to know, and possible health related issues. Surveys have shown that consumers are far more concerned about the other aspects of making food purchasing decisions, such as cost, quality, convenience, nutrition and the type of packaging used. Country of origin simply is not a major concern to most consumers.

Similarly, the health argument has been discounted by no less an authority than the Secretary of Health and Human Services. In a February 16, 1988 letter to trade bill conferees the Secretary stated that requiring a labeling distinction between foreign and domestic ingredients in food products "cannot be justified on a public health basis."

There is no other conclusion than the fact that these proposals are being offered for protectionist trade purposes. And as was pointed out by U.S. Trade Representative Clayton Yeutter in a letter commenting on the Exon country of origin amendment in the trade bill, "this requirement would be seen as an unnecessary new trade barrier by our trading partners, and would be counter-productive to our negotiating efforts."

Finally, another government agency, the General Accounting Office, in a report issued last year on country of origin labeling for meat products concluded that the costs of implementing and administering such a program far outweighed any perceived consumer benefit.

There are also many practical considerations about the workability of any such plan. The fact is that U.S. food manufacturers use many foreign products and ingredients in responding to consumer demands for new and varied products. It is also often the case that the sources of supply for ingredients change during the course of the year depending on price and availability. To require a label change any time an ingredient supplier changes is impractical. Even if it could be accomplished logistically, which is doubtful, there is absolutely no way that the cost of such a system is worth whatever the consumer benefit might be.

To summarize, we are concerned about the change in direction being taken by the Customs Service in its implementation of current country of origin laws. We feel that they have abandoned the well known and workable standards which have governed this area for many years and which have served the public well.

We are also concerned about the possibility of Congress imposing new country of origin labeling requirements on food companies for the following reasons:

-- implementation is impractical
-- it would be very costly
-- consumer need and benefit has not been demonstrated
-- The GAO, Department of Health and Human Services and the U.S. Trade Representative have all said it is not a good idea, not health related
-- it imposes a trade barrier and invites foreign retaliation

We hope that this hearing will serve to convince members of Congress that the imposition of such labeling requirements is unwise, and we ask that the members of this Committee join us in opposing such efforts during the 101st Congress and beyond.

Thank you for the opportunity to appear.

Chairman GIBBONS. I am intrigued by this brownie box label, that you have "*x* countries unknown". Is that because you have to put ingredients in here that are composites of other people's ingredients?

Mr. ELLIOTT. They are proprietary flavor formulations purchased from outside flavor supply houses. We have means to know that they are safe, but we don't know what the ingredients are, nor what countries they come from. My guess, from flavor buying many years ago, is if we had that information it would probably chew up the other end panel.

Chairman GIBBONS. Coca-Cola doesn't publish its recipe.

Mr. ELLIOTT. They fight very hard not to.

Chairman GIBBONS. That is interesting.

Mr. Lewis?

Mr. LEWIS. Thank you, Mr. Chairman.

I guess there isn't anything I could say that would convince these gentlemen that good labeling would be a good thing to do.

Did you have this printed out for us?

Mr. ELLIOTT. This was put together not for these hearings but in the course of the conversation and consideration by Congress of the omnibus trade bill. It was done as a good faith effort to try to understand what the implications would be, assuming a very flexible form of labeling on those materials on which we did know the origin countries.

Mr. LEWIS. Would it not be as easy to say the 10 items you are referring to here, with maybe 100 countries—if you just put "contains foreign sugar," or, "foreign chocolate," would that be extremely costly to you?

Mr. ELLIOTT. If one just said "contains foreign ingredients," I think it would not bother us to do. It would not be terribly costly, but I am not sure it would tell anybody anything.

Mr. LEWIS. On the National Food Processors Association statement, I notice you refer to a number of things here, particularly the government report, and you were probably here when I asked the government representative what consumer organizations they spoke to, and they didn't have any to relate to us. Their report states that the cost of administering and implementing the program far outweighs any consumer benefit, which I think is a poor statement to make about making those interviews. I notice you do that.

What is really wrong—I will ask all three of you this—you have the ingredients on this other packet here on your brownies. If it was a meat product or contained a meat product, what is wrong with saying "contains foreign meat"? Then you advertise about your 800 numbers where the consumer can call if the consumer has a concern.

What would be wrong with putting "contains foreign meat" on a can of stew or in blended meat, hot dogs, bologna, things like that? How much is that going to cost you or cut into your profits and hurt your stockholders?

Mr. HARTOG. I think you have put your finger on a very important potential reform that we could make.

I think when you look at products such as apple juice or other products that come from a number of countries, if in fact the proc-

essor could put on it just that it was imported from foreign countries, it would save a tremendous cost as far as the multiplicity of labels is concerned and would still advise the consumer of the fact that national policy indicates he or she should be advised of it.

So I would think that instead of trying to make sense out of this egg the way it is scrambled right now, an overall reform of that nature could be of benefit to the consumer and to the industry.

Mr. LEWIS. Have you read the bill?

Mr. HARTOG. No.

Mr. LEWIS. Page 2, lines 5 through 8, say, "provided that if the meat or meat product or food product is from more than one country of origin, may be marked or labeled as containing imported meat or an imported meat food product."

That is all we are asking for, and you come in with all of this testimony telling us—I am speaking to all three of you—about why this is so bad, and that is what we are asking you to do and you agree with me.

Mr. HARTOG. We have not testified on your bill. We came here to testify on the Customs practice today and the proposed practice where Customs would require a multiplicity of countries being designated on labels, which would act as a tremendous trade barrier.

It is precisely working toward that type of compromise that we would be happy to work with you. If in fact what we are seeking is simply a labeling on these cartons that the product is an imported item, instead of all this multiplicity of countries that is now being required, we think that would be a legitimate reform.

Mr. LEWIS. I think the fact that you put "imported sugar" on the truffle box would be simpler and less expensive than coming up with jargon like this, which is absolutely asinine, and nobody has asked you to do that.

Mr. GRAHAM. It would be complicated with some products even to say "contains foreign meat." In a soup or beef stew product, the majority of the items in the product may be domestic items. I am not sure what purpose it would serve to put on there "may contain foreign meat." I am not sure what the value of that kind of information would be, if you were to pick up a product that was 80 or 90 percent American product but had one ingredient that was an imported product, to say on the label "may contain imported meat."

Mr. LEWIS. Did I understand you to say that the canner, for example, wouldn't know whether he was putting imported meat into the can?

Mr. GRAHAM. Generally speaking, they would know in the case of meat, but that is not true in the case of all——

Mr. LEWIS. I am only talking about imported meat in the bill.

Mr. ELLIOTT. In response to your question, there were in fact amendments considered in the omnibus trade bill. The first proposal of Senator Exon would have required specific origins of every single ingredient, which is far worse than the sample you have there.

There was no way of judging what the language adopted by the Senate would finally result in as far as the regulatory process was concerned, but simply going to school on what the Customs Service has already established for products of mixed origins which are not substantially transformed, such as orange juice, and using their so-

called shotgun ruling process which they issued rulings on, that was basically what we used for that box.

I think there could be a problem if you had to, ingredient by ingredient, talk about even possible foreign ingredients. You would simply clutter the ingredient label very badly and you could run into situations in which you had boxes that did or did not have to go through all those costs.

If it said somewhere on the box "may contain domestic and/or foreign ingredients," we might have to shuffle other stuff around on the box, but I am sure we could live with that. I am not sure what useful purpose it supplies.

Mr. LEWIS. Where in the GATT regulations does it state—does article IX of the GATT regulations state that you cannot place on the box "imported meat," "imported sugar," whatever, without saying the country?

Mr. HARTOG. It does not.

Mr. LEWIS. I am sure it doesn't. I wanted to make that clear for the record.

Mr. LOBRED. The GATT does say that you cannot treat imported products any less favorably than domestic products, and when you burden a label with a long list of foreign countries, then you are discriminating in that manner.

Mr. LEWIS. That is true. But as long as you don't state the countries, you are not discriminating, so they get the same status, so you are not violating the GATT rules at all.

Chairman GIBBONS. All right, gentlemen. Thank you all very much.

[Whereupon, at 5:45 p.m., the subcommittee was adjourned.]

[Submissions for the record follow:]

90-919 O - 89 - 5

AMERICAN DEHYDRATED ONION AND GARLIC ASSOCIATION (ADOGA)

INTRODUCTION:

The American Dehydrated Onion and Garlic Association is comprised of the leading U.S. companies that dehydrate domestically produced onion and garlic. ADOGA was formed in 1956, as a non-profit, voluntary organization to standardize trade specifications, promote uniform nomenclature and support research programs to improve the standards of excellence, quality and safety of dehydrated onion and garlic products that are processed primarily in the state of California.

Today there are four domestic producers of dehydrated onion and garlic in the United States. Three of these companies are ADOGA member firms, and represent over 90% of the domestic production of the dehydrated product in this country. The producers operate six plants located in small towns in central California and Nevada, employ over 5,000 people, either directly or by the supportive farming activities of the industry, and obtain their raw supplies from over 100 farmers. It is estimated that an additional 3,000 jobs are dependent upon ADOGA member activities, primarily in the small agricultural communities where ADOGA facilities are located, making ADOGA a major factor in those economies. These companies have been successfully built through the free enterprise system, and stand proud that their small agricultural industry is uniquely free of government subsidies.

The onion and garlic industry is a relatively small, highly specialized agriculture industry. The industry has grown as an economic factor in this country to where, according to the most recent statistics, approximately 1 billion grower produced pounds of onion and garlic is contracted bu the dehydration industry for processing. This production reaches the consumer market as approximately 200 million pounds of dehydrated product that is used as an ingredient in many food formulas as flavorings and seasonings. Approximately 80% of the output is distributed to food manufacturers and food service industries. About 5% is marketed at retail by spice manufacturers and 15 percent is exported.

Comments

The American Dehydrated Onion and Garlic Association would like to acquaint the Congress and the Administration with its specialty crop industry located primarily in California, with support operations in the States of Nevada and Oregon, which is a success story in the economics of today's agriculture.

The onion and garlic dehydration industry is part of the California specialty crop industry. Agriculture plays a vital role in the economy of the State of California and the Nation. California agriculture has received world-wide recognition for its quality, variety and abundance, and is truly one of the most diversified regions in the world with over 250 commercial crops and livestock commodities. California has been the leading agriculture state in the U.S. for the past 39 years. California food products have made an important contribution to our nation's high standard of living by providing high quality products at reasonable prices and by the vast amount of food products exported to other countries thereby contributing to the reduction of our trade deficit.

ADOGA's objective in submitting comments on country-of origin labeling requirements for food products is to call attention to the fact protections against transshipments must be strengthened and enforced through stric rules or origin. The members of the American Dehydrated Onion and Garlic Association have become increasingly alarmed about the issue of transshipments and appeals to Congress to give this area considerable thought.

Present U.S. rules which permit a minimum of thirty-five percent (35%) of the product's value to be an indicator of country of origin is very inadequate. This percentage is low enough that accounting manipulation, with respect to overhead, labor, and internal costs, can take place to qualify a product for no duty into the U.S. It will not impact the economics of a given country to become a transshipment point. The major economic impact comes from producing the crop. Therefore, if the goal is to help the importing nation, ADOGA suggests that 100% of the production should come from the origin country. This would allow all applicable tariffs to be applied in a uniform manner and, further, pesticide controls could be established that would be meaningful for import into this country without the necessity of labeling for foreign sources. ADOGA would support as the country-of-origin being the country where the last substantial transformation takes place if strict rules can be developed and administered.

It is recognized that the 100% Country of Origin would not fit for all industries, but it is suggested that 50 percent is a more realistic level, and, as we understand, is the level approved in the U.S.-Canada Free Trade Agreement.

The firms comprising ADOGA, which represent over 90 percent of the domestic dehydrated onion and garlic industry, contract totally on a competitive basis for all of their growing crops each year. The industry takes all of the market risks thereby assuring the grower of a profitable market. These industry contracts are very much in demand. The U.S. dehydrated onion and garlic industry receives no direct subsidies for its growing crop. We believe that any change in federal trade regulations, wherein the domestic dehydrated onion and garlic industry must compete with foreign producers, who are in many instances heavily

subsidized and pay much lower wages than the U.S. industry, would constitute unfair trade legislation.

The ADOGA member firms have been successfully built through the free enterprise system and stand proud in the fact that their small agricultural industry is uniquely free of government subsidies.

When the gross wage differential is considered between importing countries and the United States, it becomes very impractical for the domestic industry to spend large amounts of capital to stay competitive. It is however, very beneficial to the consumer and to industries such as the dehydrated onion and garlic industry to remain in business to assure:

1) a quality product, free of pesticide contamination,

2) a dependable source of supply for the many food formulas where ADOGA's products are used as ingredients,

3) a successful and profitable crop for the many California, Nevada and Oregon growers.

Although California's 33,000,000 acres of farmland account for just 3% of the U.S. farmland, it produces 50% of the Nation's fruits, nuts and vegetables. To allow unfair imports to jeopardize such a concentrated industry would not only have a severe impact on an area that is vital to our food chain, it would lower the quality of food available to the consumer by permitting the entry of lower quality commodities in the U.S.

Therefore, while the industry is small compared to other agriculture crops, the dehydrated product impacts many consumer food items as an ingredient. For this reason, quality and a dependable source of supply is paramount to many end user products such as soups, baby food, catsup, sauces, direct seasoning of home cooked items and many others. Inferior imported product will not offer the food processing industry the dependable and contaminate free products they now enjoy. (For example, foreign production often has poor pesticide control.)

The American consumer would not benefit from the influx of low-price transshipped imports of dehydrated onion and garlic. The quantities or the products which are used as flavorings and seasonings are too small in consumer-sized food portions to have price savings passed on to them.

Summary:

ADOGA continues to be concerned with maintaining a fair trade environment for its small industry and asks that Congress give consideration to the "back doors" that will open if strict and equitable rules of origin are not maintained. The present U.S. rule permitting a minimum of 35% of the product's value to be an indicator of country of origin is inadequate. If the goal is to help the importing nation, ADOGA suggests that 100% of the production should come from the origin country. This as we noted previously would allow all applicable tariffs to be applied in a uniform manner, and pesticide controls could be established that would be meaningful for import into this country without the necessity of labeling. ADOGA would support as the country-of-origin being the country where the last substantial transformation takes place if strict rules can be developed and administered.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE TRADE SUBCOMMITTEE
HOUSE WAYS AND MEANS COMMITTEE
ON COUNTRY OF ORIGIN LABELING FOR FOOD AND MEAT PRODUCTS

SEPTEMBER 28, 1988

The American Farm Bureau Federation is the largest general farm organization in the United States representing over 3.6 million farm families. We appreciate the opportunity to comment on the proposals to require increased country of origin labeling of meat and other food products.

Farm Bureau members strongly believe that all imported food products should be clearly labeled with concise country of origin information. Labeling information should clearly indicate the country of origin throughout the marketing chain, especially at the retail level. This information is important to the growing number of consumers that question the sanitation of many imported food items.

Most imported manufactured goods, including processed foods, are required to indicate country of origin. Unfortunately, most agricultural items, such as meats, fruits and vegetables are imported in bulk form, and therefore, are not subject to these labeling requirements once the product is repackaged or processed into consumer food items. In our opinion, little is accomplished in terms of increasing consumer knowledge unless the country of origin information is extended to the retail level for all imported agricultural products. This will allow consumers who have a preference to choose between domestic and imported food products.

Opponents to the extension of country of origin labeling legislation have argued that new labeling requirements will be viewed as a trade barrier to imports, and thus will invite retaliation against our exports. We do not concur with this opinion for two reasons.

First, if origin labeling at the retail level can be required on manufactured goods, including most processed foods, without retaliation, then it can also be applied to all bulk or fresh agricultural products. In fact, extending the country of origin requirements to cover these items will not affect imports at all. It will, however, require U.S. manufactures, wholesalers and retailers of imported products to provide this information on consumer packages. This can easily be accomplished, since this information is already required on the bulk shipping container that the imported agricultural products arrived in.

Secondly, country of origin labeling at the retail level has been extended to include several additional agricultural products over the past few years. These products were: frozen concentrated orange juice, pistachios and honey. We are not aware of any adverse effects on our agricultural exports as a result of these actions. In our opinion, requiring all imported food products to show country of origin should not, in any way, be considered a trade barrier.

While we strongly support legislation to extend country of origin labeling to meats and other food products, we recognize that some flexibility may be needed by processors, wholesalers and retailers in compliance with the marking requirements. However, the country of origin labeling information on these products should be clearly stated and conspicuous to consumers.

We appreciate the opportunity to share our views on this important matter.

U. S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS

COMMENTS OF THE AUSTRALIAN MEAT AND LIVE-STOCK CORPORATION ON COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS

I. INTRODUCTION AND SUMMARY

The Australian Meat and Live-stock Corporation[1/] ("AMLC" or "the Corporation") hereby submits its comments concerning proposed additional country-of-origin labeling requirements for imported meat and other food products.[2/] While the AMLC fully supports providing consumers with all information relevant to the food products that they purchase -- including the products' country-of-origin -- any proposal to extend current requirements should be viewed with caution. Any benefit of new labeling rules to consumers -- which appears unlikely -- must carefully be weighed against the inevitable administrative costs and questionable legality of certain country-of-origin proposals that have been rejected by Congress in the past. For the following reasons, the Corporation submits that additional country-of-origin labeling requirements would appear to be ill-advised, unlawful, and inefficient:

1. Existing U.S. laws provide consumers with sufficient information regarding country-of-origin.

   The existing regime of federal laws regulating domestic and imported foods provides consumers with accurate, meaningful information of the country in which the food was produced and also enables consumers easily to distinguish locally produced foods from imported foods.

1/ The Australian Meat and Live-stock Corporation, a statutory corporation of the Government of Australia, was created by the Australian Parliament in 1977. It seeks to enhance Australian meat production and sales and is funded by Australian meat producers.

2/ This material is prepared, edited, issued, and circulated by Clifford & Warnke, 815 Connecticut Avenue, N.W., Washington, D.C. 20006, who is registered under the Foreign Agents Registration Act of 1968, as amended, as an agent of the Australian Meat and Live-stock Corporation. This material is filed with the Department of Justice where the required registration statement is available for public inspection. Registration does not indicate approval of this material by the United States Government.

2. Labeling the country-of-origin of each ingredient in food products would place enormous burdens on manufacturers and retailers of imported foods and upon enforcement agencies.

It would be virtually impossible to comply with, or enforce an additional requirement to label the country-of-origin of all ingredients. Moreover, extending the country-of-origin requirements would impose greater administrative burdens on manufacturers and retailers and would necessitate alteration of the majority of existing labels of many foods. The resultant costs would be passed on to consumers.

3. Requiring country-of-origin labeling of food ingredients would create a non-tariff trade barrier and would contravene fundamental principles of the GATT.

The GATT is aimed at replacing non-tariff trade barriers with tariffs and then negotiating tariff reductions. The GATT calls on its members to keep country-of-origin labeling "reduced to a minimum." Article IX. A requirement to label the country-of-origin of ingredients would contravene this Article. The GATT also requires its members to prevent the introduction of measures which are designed to impose non-tariff trade barriers. Article III. If a substantial motive for the introduction of additional country-of-origin requirements is to reduce imports of food products, Article III of the GATT clearly would be violated.

II. EXISTING LAWS REGULATING THE COUNTRY-OF-ORIGIN OF FOODS HAVE PROVED TO BE MORE THAN ADEQUATE.

Existing federal laws regulating labeling of food products with their country-of-origin already provide consumers with accurate, meaningful information. They ensure that imported foods clearly are distinguishable from foods produced in the United States. Domestically produced food products are required by federal law to be labeled with the name and place of business of the manufacturer, packer, or distributor. In addition to meeting these requirements, food produced overseas must be marked with their country-of-origin.

A. Tariff Act of 1930

Section 304 of the Tariff Act of 1930, 19 U.S.C. § 1304, requires that every imported article, or its container, be marked in a manner that will inform the "ultimate purchaser" in the United States of its country of origin. The "ultimate purchaser" generally is the last person in the United States who receives the article in the form in which it was imported. 19 C.F.R. § 134.1(d). Thus, if the article is to be sold at retail in its imported form, the retail customer is the ultimate purchaser. But if the imported article is to undergo further processing in the United States which "results in a substantial transformation of the article," the processor will be the ultimate purchaser. 19 C.F.R. § 134.1(d)(1). If the manufacturing process is merely a minor one that leaves the identity of the imported article intact, the consumer or user who obtains the article after processing is regarded as the ultimate purchaser. 19 C.F.R. § 134.1(d)(2).

Thus, the key question in current law is whether there has been a "substantial transformation" of the product after its importation. The Customs Service Regulations indicate that a substantial transformation need not result in a "new or different article." 19 C.F.R. § 134.1(d)(1), although the manufacturer or processor will be considered the ultimate purchaser of the imported article if manufacture or processing results in the article having a "name, character, or use differing from that of the imported article." 19 C.F.R. § 134.35.

Notably, the "substantial transformation" test of the Tariff Act of 1930 is consistent with the international standard as to when a product containing foreign ingredients should be considered a domestic product. The Codex Alimentarius Commission, the joint FAO/WHO Commission on food, considered the question of country-of-origin at length, and ultimately decided that the most workable way to determine the change-over point is to examine the processing which the goods have undergone. The Codex Alimentarius Commission resolved that the country-of-origin should be the last country in which the food underwent the processing that changed its nature.

B. The Poultry And Meat Inspection Acts

Regulations issued pursuant to the Poultry Products Inspection Act, 21 U.S.C. §§ 451-470, and the Federal Meat Inspection Act, 21 U.S.C. §§ 601-695, contain country-of-origin labeling requirements specifically applicable to imported meat. These regulations generally are consistent with requirements of the Customs Service Regulations promulgated pursuant to section 304 of the Tariff Act of 1930.

Poultry products imported in the packaged form in which they are to be offered for sale to household consumers must bear labels showing the country-of-origin. 9 C.F.R. § 381.205. Similarly, the "immediate containers" of imported meat products must show the name of the country-of-origin. 9 C.F.R. § 327.14. Thus, for example, some imported frozen lamb cuts are required to bear country-of-origin labels because they are sold in retail stores in their imported form. U.S. GAO, Report to Congressional Committees, Imported Meat And Livestock: Chemical Residue Detection And The Issue Of Labeling, GAO/RCED-87-142 (September 1987) at 87. However, in instances where the poultry or meat product is imported in bulk and the ultimate purchaser is, therefore, likely to be a manufacturer or processor, the regulations only require country-of-origin marking of the shipping containers. 9 C.F.R. §§ 381.205, 327.15.

In sum, the requirements of the Tariff Act of 1930 and the Poultry and Meat Inspection Acts already provide the consumer with meaningful information of the country-of-origin of imported foods. They provide a time-tested means of distinguishing locally produced from imported foods. They also are consistent with prevailing international standards governing country-of-origin product labeling. Any consideration by the Subcommittee of whether to impose additional labeling requirements must be made against this backdrop of a highly effective regulatory scheme.

III. THE BURDEN OF ADDITIONAL COUNTRY-OF-ORIGIN REGULATIONS ON MANUFACTURERS, RETAILERS, CONSUMERS, AND ENFORCEMENT AGENCIES WOULD BE SIGNIFICANT.

The United States imports beef and lamb from Australia. Beef imports constitute approximately seven per cent of total U.S. beef supply, and Australia provides approximately fifty per cent of U.S. beef imports.[4/] Lamb imports constitute approximately nine per cent of total lamb supply,[5/] and Australia provides between fifty and sixty-five per cent of U.S. lamb imports.[6/]

Before export to the United States, Australian beef and lamb are processed in Australia at United States Department of Agriculture ("USDA")-approved packing plants and are subject to inspection by USDA officials in Australia. Upon entry into this country, the beef and lamb are again inspected by U.S. officials. There is no question, therefore, regarding the safety of Australian beef and lamb for the American market.

The vast preponderance of Australian beef imported into the United States is blended with fatty-trimmings of U.S. beef to produce hamburger, primarily for the fast-food market. Australian beef is ideal for this blending since it is grass-fed and thus much leaner than corn-fed U.S. beef. A requirement to label the country-of-origin of individual food ingredients (e.g., U.S. beef v. Australian beef) would add significantly to the costs of blended meat products. The extra costs would arise because all current labeling would be discarded and, at all stages of the manufacture and distribution chain, new labels would have to be generated.

This process would necessitate at least three specific costs: redesigning labels, producing new printing plates, and printing new labels. In addition, it would be necessary to keep processed products containing meat from different countries separated by lot and code number to preserve their identity. This would require new storage procedures and thereby impose complex recordkeeping and involve additional operational costs.

As noted in a recent GAO Report to Congress,[7/] the USDA in 1981 analyzed the economic impact of labeling the country-of-origin of imported meats. It predicted that the average incremental cost would be $150 per label. Id. at 90. On that basis, USDA estimated that the direct one-time labeling cost to the meat industry would be from $11.7 million to $17.6 million. Id. These figures merely reflect the additional labeling costs in 1981 of a country-of-origin requirement affecting only imported meat. The costs of listing the country-of-origin of all ingredients would exceed these figures substantially due to the administrative and operational costs and to adjustment for inflation.

4/ U.S. Customs Service, USDA Meat and Dairy Monthly Imports (1987-88).

5/ U.S. Department of Commerce, U.S. Sheep Industry Market Situation Report (1987-88).

6/ Id.

7/ U.S. GAO, Report to Congressional Committees, Imported Meat And Livestock: Chemical Residue Detection And The Issue Of Labeling, GAO/RCED-87-142 (September 1987).

All these costs, of course, ultimately would be borne by consumers. It is significant that GAO -- after studying this issue for more than one year -- concluded that there was insufficient evidence that the benefits to be gained by extending country-of-origin labeling to imported meat would justify the cost incurred. Accordingly, it did not recommend any change to the labeling requirements for imported meats. Id. at 97. GAO stated:

> In our opinion, insufficient evidence exists that the benefits gained by extending country-of-origin labeling throughout the food chain, including menu notices or signs in those eating establishments that serve imported meat, would justify the cost of implementing, monitoring, and enforcing such a requirement. Accordingly, we do not recommend a change at this time to the labeling requirements on imported meat and meat food products.

Id.

IV. REQUIRING COUNTRY-OF-ORIGIN LABELING OF INGREDIENTS WOULD VIOLATE THE GENERAL AGREEMENT ON TARIFFS AND TRADE.

The General Agreement on Tariffs and Trade, GATT B.I.S.D. Vol. IV (1969) ("GATT"), is designed to enhance free trade by channeling non-tariff barriers into tariff form and negotiating tariff reductions. The United States is a signatory of the GATT. In considering any trade-related matter, therefore, the United States must take into account its GATT obligations.

A. Article III of the GATT

Article III:4 of the GATT imposes the following fundamental obligation upon contracting parties:

> The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

Article III further imposes the obligation that contracting parties should not regulate imports so as to afford protection to domestic products.

Any discussion concerning the extension of existing country-of-origin requirements which would unfairly discriminate against imported foods or foods containing imported ingredients, clearly must take into account Article III. In particular, the Subcommittee's consideration of additional country-of-origin legislation should be made within the context of section 2176 of the Omnibus Trade and Competitiveness Act of 1987. Section 2176 was a proposal to require country-of-origin labeling for imported food and meat products which contain a significant amount of imported ingredients. This proposal, rejected by the Conference considering the trade bill, apparently was aimed at reducing the number of food imports. 133 CONG. REC. S8973 (daily edition June 30, 1987). A similar type of law clearly would contravene Article III of the GATT.

Given the potential adverse effect, any proposal to extend the country-of-origin requirement may have which singles out imported foods or imported ingredients, it may be difficult for the United States to argue that such a proposal also is not in contravention of Article III.

B. Article IX of the GATT

Article IX:2 of the GATT specifically deals with marks of origin and provides as follows:

> [I]n adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconveniences which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum.

The AMLC submits that requiring labeling of the country-of-origin of every foreign ingredient of food would be contrary to both the spirit and the letter of this part of Article IX:2 and would contravene the GATT.

Regulating marks of origin for the purpose of protecting consumers against fraudulent or misleading indications is, of course, GATT legal. Article IX:2. However, given the obvious protectionist motivations behind certain country-of-origin legislation introduced in the past, it could be difficult for the United States to argue that the purpose of any proposal singling out imported foods or ingredients is to protect consumers -- and not to enhance protectionism. On this basis alone, any argument in favor of extending the country-of-origin requirements to foreign ingredients on the basis of consumer protection should be outweighed by the more persuasive argument that it maybe discriminatory and obviously contrary to the GATT. At a minimum, there will be a burden on the Congress to demonstrate that additional country-of-origin legislation is rationally justified and not aimed simply at restricting imports.

V. CONCLUSION

The AMLC submits that any additional requirement to label the country-of-origin of foreign foods and ingredients could be violative of Articles III and IX of the GATT. It may also adversely affect the image of the United States in the eyes of its international trading partners.

While the Corporation would consider supporting legislation legitimately aimed at giving consumers necessary information about the country-of-origin of imported food products, it would vigorously oppose legislation designed merely to add unnecessary costs to imported foods.

Respectfully submitted,

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Dated: Washington, D.C.
September 30, 1988

SENATOR LAWTON CHILES

FEDERAL MEAT INSPECTION ACT AMENDMENTS
TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON TRADE

Mr. Chairman, I am pleased to join my Colleague and friend Tom Lewis in support of legislation requiring country of origin labeling on imported and domestic meat and meat products at the retail and wholesale levels. I appreciate your Committee considering this proposal and having the opportunity to share my thoughts.

As part of the trend towards healthier lifestyles, consumers are increasingly interested in monitoring the quality of food they are purchasing. An important factor in selecting the best food product is knowing that product's origin. I feel strongly that consumers have the fundamental right to know where the food they consume is produced, and I believe that H.R. 2920 and the companion bill in the Senate will provide this necessary information to the consumers.

Secondly, Mr. Chairman, our domestic meat producers take great pride in providing consumers with nothing but the best products. Their quality products should not be confused with foreign produced meat.

Our intention is not to create a burdensome labeling system. Since a number of meat products, such as sausage and hot dogs, are made by blending meat products which could be from a number of different countries, this legislation requires only that meat products made with meat from more than one country be labeled as "imported."

And as Congressman Lewis has pointed out, Mr. Chairman, this bill requires labeling of meat at the retail level but does not require eating establishments to label meat.

I hope that the Committee will recognize the importance and the fairness of this measure and move its prompt consideration by the full House. Again, Mr. Chairman, I appreciate the opportunity to join Congressman Lewis in sharing my thoughts on this bill.

STATEMENT BY

THE CHOCOLATE MANUFACTURERS ASSOCIATION
OF THE UNITED STATES OF AMERICA

The Chocolate Manufacturers Association of the United States of America opposes country-of-origin labeling and like measures that would require food manufacturers to label the ingredients of their products to reflect the country in which each ingredient was produced.

We believe country-of-origin labeling is both unfeasible and of little interest or benefit to consumers.

In the case of chocolate and most confectionery, sugar and cocoa are two primary ingredients both of which are produced in as many as 60 different countries.

Cocoa is a tropical product. It is not produced in the U.S. but in forty other countries around the world. Nearly all of the countries producing cocoa rely on sales to the U.S. to assist their economy and to pay foreign debts.

Chocolate manufacturers buy cocoa beans from several countries and blend the beans to achieve a certain taste and flavor that not only distinguishes their products from those of other manufacturers but also assures the consumer a consistent taste and flavor.

Country blends are considered a trade secret, and to reveal them would be to reveal information that the company considers proprietary.

Sugar, another significant ingredient in the manufacture of chocolate and confectionery is also produced in approximately forty countries. Since it is a generic product, sugar refiners often mix sugar from many of these countries prior to selling it to food manufacturers.

If country-of-origin labeling were adopted, it would be nearly impossible for the manufacturer to keep track of every combination of sugar and cocoa used. Labeling the food would require an unthinkable number of labels that encompass each combination of sugar and cocoa.

For secondary users of chocolate, the problem is even more confusing since their supply may come from two or more sources, thereby adding to the cost of packaging and labeling.

Other ingredients used by our industry such as coconut, are also produced only outside the U.S., and by many countries.

Another restraint facing chocolate and confectionery manufacturers is the space available on the label to list the necessary countries.

Country-of-origin labeling is not required by non-food manufacturers. Automobiles and clothing do not have to be labeled with the country-of-origin of their component parts even though they may be produced elsewhere.

Consumers may be interested whether a product was produced in a foreign country. However, they are rarely, if ever, concerned with the country-of-origin of specific component parts.

If a finished chocolate product is produced in another country, it is labeled as such. We should not be required to label the source of its individual ingredients.

Attached is a mock chocolate bar label which visually demonstrates the difficulty in labeling the country-of-origin of these ingredients. It is physically impossible to list all the countries from which certain ingredients were grown.

We appreciate your consideration of our views and urge the Trade Subcommittee to oppose country-of-origin labeling legislation.

EXAMPLE

Chocolate Bar Label with Country-of-Origin Labeling

TradeBill Milk Chocolate WITH Roasted Hazelnuts
CHOCOLATE AT ITS BEST
TradeBill
Milk Chocolate WITH Roasted Hazelnuts
100% NATURAL
NET WEIGHT 2 OZ
TradeBill Milk Chocolate WITH Roasted Hazelnuts
TradeBill Milk Chocolate with Roasted Hazelnuts
63 Countries Left Out Due to Lack of Space
Lettering Only One-Half of Legally Required Size

The Time Has Come for a Meaningful
Food Labeling Law
Testimony Submitted by
U.S. Senator J. James Exon
To the U.S. House of Representatives
Ways and Means Committee
September 27, 1988

Mr. Chairman, in June 1987, I offered an amendment to the comprehensive trade bill to provide for the labeling of imported food products and products which contain a significant amount of imported ingredients.

That amendment was adopted in the Senate with an overwhelming 73 to 19 vote. It was indeed unfortunate that the Exon/Senate food labeling amendment was resisted in the agricultural subconference during the consideration of the comprehensive trade bill. I am confident that if that proposal were given a fair vote in the House of Representatives, it would have won strong support.

The Exon/Senate food labeling amendment was a simple and moderate proposition. It was crafted to specifically accommodate the legitimate concerns of the food processing industry and meet the needs of the American consumer.

The amendment directed the Secretary of Agriculture and the Director of the Food and Drug Administration to issue regulations which would provide to the extent practicable for the labeling of imported food products and food products which contain a significant amount of imported ingredients. Under this proposal the label would to the extent practicable reflect the country of origin of the imported product or ingredient.

Opponents of the Exon/Senate amendment conveniently ignored two important provisions of the amendment which provided that labeling would be required only "to the extent practicable", and that labeling would be required only when a product was imported or where there was a "significant amount of imported ingredients".

This formulation allowed food processors and regulators appropriate discretion to accommodate those special cases where country of origin labeling would be impossible or too costly. I fully recognize that in food products such as coffee or chocolate ingredient formulas are constantly changing and precise labeling would be impossible. Contrary to some claims, if the Exon/Senate amendment were law, it would have been totally acceptable for such products to simply carry a notice that the product contained imported ingredients.

The weakness in current laws is that once a product undergoes a so-called "substantial transformation" the product need not be labeled as imported. The degree of transformation can vary from product to product. At the retail level there is very little country of origin information available to the consumer.

Mr. Chairman, food imports have grown significantly over the last several years and American branded food products are increasingly using imported ingredients.

Advocates of free trade contend that the increase in imported food products reflects the desires of the American consumer. However, under current rules, consumers are not made aware of imported ingredients in American branded food products. In this regard, consumers are not making a free choice or a conscious decision.

For free trade to be equated with consumer preference, consumers need to be given the opportunity to choose. That opportunity depends, of course, on knowledge. The Exon/Senate amendment would have permitted true consumer choice.

Food labeling legislation is not protectionist. It represents the very essence of free trade. I believe that in most cases American food products are superior to their imported counterparts. I am convinced that Americans would seek and choose home-grown American products.

In addition to choosing American taste and quality, consumers may also wish to purposely avoid purchasing food products from certain areas of the world. That consumer preference should also be respected. It is well established that home-grown American products are subject to more rigorous inspection standards than imported products. In addition, Americans may wish to avoid products from one part of the world or another as a means of making a political statement against environmental, human rights or political practices in foreign nations.

Mr. Chairman, the Exon/Senate food labeling amendment only asked that American consumers be given an opportunity to exercise a free choice.

Imported clothing is labeled to reflect the country of origin. If American consumers have the right to know what they are putting on their bodies, they should have the right to know what they are putting into their bodies.

An accurate and informative country of origin labeling is supported by American consumers, farmers and environmentalists. The time has come for the Congress to adopt a realistic and informative imported food labeling law.

Thank you, Mr. Chairman.

FOOD MARKETING INSTITUTE

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TELEX: 892722 FMI USA WSH
FAX: 202/429-4519

September 23, 1988

The Honorable Sam Gibbons
Chairman, Trade Subcommittee
Ways and Means Committee
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Food Marketing Institute (FMI) is pleased to make comments regarding mandated country-of-origin labeling for your subcommittee hearing on September 27, 1988.

The Food Marketing Institute (FMI) is a nonprofit association conducting programs in research, education and public affairs on behalf of its 1,600 members -- food retailers and wholesalers and their customers in the United States and overseas. FMI's domestic member companies operate approximately 17,000 retail food stores with a combined annual sales volume of $180 billion -- more than half of all grocery sales in the United States. Most of FMI's membership is composed of independent supermarket operators or small regional firms.

The Food Marketing Institute strongly opposes federally mandated country-of-origin labeling for several reasons. First, it would require increased costs that would be shared with consumers -- the supermarket shoppers. However, there is no benefit to consumers with this increased cost.

Proposed country-of-origin labeling legislation also would be virtually impossible for retailers to comply with and enforce in the retail stores. It would require inordinate personnel to maintain accurate labeling due to the rapid turnover of food items.

A country-of-origin labeling law would erect a non-tariff trade barrier, prompting other nations to respond in kind, thus hampering efforts to expand export markets for U. S. farm products and inhibiting the flow of food products in world commerce.

In the case of blended food products (i.e., fruit juices and coffee), an elaborate tracking system would need to be set up to ensure that the product is matched with labels containing an accurate statement of origin. These products are purchased from a variety of sources, dependent upon the season, quality, available supply and price. In order for food retailers with private label and generic brands to obtain a product of consistent flavor, color and quality, the product must be blended throughout the year. It is impossible for the grocer to know ahead of time which batch of product will come from which country. Massive label inventories would have to be purchased and maintained.

Some proponents of "Buy American" products are supporting country-of-origin labeling. It is true that country-of-origin labeling will draw attention to imports. In some instances, though, it may actually increase the consumption of imported products.

Other proponents of "Buy American" point out that imported produce may have illegal pesticide residues and that buying domestic produce is safer. If there is a concern over the safety of our food supply, whether domestically grown or imported, country-of-origin labeling does not directly address or resolve food safety questions.

Country-of-origin labeling should remain available as a voluntary option for promotion of food products and not become an instrument that restricts trade and raises consumer food prices.

Thank you for providing FMI with the opportunity to comment on mandated country-of-origin labeling.

Sincerely,

Harry Sullivan
Senior Vice President
and General Counsel

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SINCE 1908

EASY LINK [illegible]

Statement of the
Grocery Manufacturers of America, Inc.
Submitted to the
House Ways and Means Committee
Subcommittee on Trade
Regarding
Country-of-Origin Labeling for Food
September 27, 1988

The Grocery Manufacturers of America, Inc. (GMA) is an 80 year old national trade association, comprised of over 130 companies which manufacture food and other products sold in retail grocery stores throughout the United States. GMA member companies employ over 2.3 million people nationwide and have annual sales in excess of $280 billion.

GMA has carefully reviewed the question of country-of-origin labeling for food products. We agree with the conclusions reached by the General Accounting Office (GAO) in their study of country-of-origin labeling for meat products authorized by the 1985 Farm Bill. GAO found "insufficient evidence exists" that the benefits of country-of-origin labeling justify the costs of implementing, monitoring and enforcing such a requirement. Those additional costs would ultimately be passed on to the consumer in the form of higher food prices. GAO's findings are applicable to all food products.

The thousands of food products found in average grocery stores across the United States contain imported ingredients, e.g., sugar, spices, flavorings, chocolate, vegetables and meat. Major food companies may use ingredients from as many as eighty-two foreign countries in their product line, and these items are purchased based on availability, price, and quality.

It is impossible for food companies to identify, segregate and trace fungible agricultural commodities throughout the manufacturing process. For example, over forty countries supply food manufacturers with sugar; as many as fifty countries export coffee beans to the United States for roasting and blending, and the National Coffee Association estimates country-of-origin labeling will cost consumers an additional $100 million dollars extra a year for coffee; and the tomato base for a can of stew, a jar of spaghetti sauce, or a bottle of ketchup may be mixed from tomatoes imported from up to ten different countries.

In conclusion, any modification of existing U.S. Customs Service labeling requirements for any classification of food would be a disservice to the consumer and an impractical burden to food manufacturers and processors.

BEFORE THE
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

In the Matter of Hearings on	:	
COUNTRY-OF-ORIGIN MARKING	:	MEAT LABELING
of Meat and Other Food Products	:	

STATEMENT OF OPPOSITION

TO ADDITIONAL LABELING REQUIREMENTS

By

THE MEAT IMPORTERS COUNCIL OF AMERICA, INC.
(MICA)

Introduction and Summary

This statement on behalf of the Meat Importers Council of America, Inc. is submitted pursuant to the announcement of the Honorable Sam M. Gibbons, Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives as set forth in Subcommittee Release #24 dated September 7, 1988.

The Meat Importers Council of America, Inc. (MICA) is a national trade association representing major segments of the meat importing, trading, packing and processing industries. MICA opposes additional requirements for country-of-origin labeling of meat or meat products, or legislation imposing more stringent labeling requirements upon imported meat or products made from imported meat as unnecessary, already covered by law, regulation, and commercial practice, unwarranted, and contrary to the best interests of the American consumer and the American economy.

Reasons for Opposition to
Additional Labeling

(1) Imports are Materials Used to Produce Domestic Products: Imported meat is used at a wide variety of levels in formulated meat products. Imported fresh frozen beef, for example, might constitute 10% of the formulation of a cooked sausage product which is otherwise composed of domestically produced meat, or it might be ground up with U.S. fatty trimmings to produce hamburger meat. In such situations the imported product clearly undergoes a substantial transformation giving it a new name, character and use. This new product is a domestic product.

(2) Added Labeling Could be a Non-Tariff Barrier: Extending country-of-origin labeling on meat would constitute a non-tariff trade barrier. The Congressional research group responsible for preparing a report to the Senate Agriculture Committee dated September 30, 1987, Imported Meat and Livestock: Chemical Residue Detection and the Issue of Labeling (GAO/RCED-87-143), specifically concluded that we should not extend country-of-origin labeling requirements for imported meat. Additional labeling requirements would be perceived by our trading partners as a new barrier, and would have the overall

effect of making it difficult to export United States agricultural products, if the supplying countries adopt "mirror-image" requirements or other restrictive trade measures.

The principal reason that additional requirements would discourage use of imported meat is the additional cost of compliance to processors. Rather than incur additional costs, processor customers would favor domestic meat wherever possible.

(3) Added Labeling Would be Inflationary: For the above reason additional labeling requirements would inevitably increase the cost to consumers of imported meat and products made therefrom. New labels would have to be developed, printed and incorporated into the entire marketing process. Some processors would also be forced to maintain separate inventories for domestic meat and imported meat from different countries. These increased costs cannot be absorbed by the distribution chain and would result in the form of higher consumer prices. Moreover, both the Government and the public would be forced to pay for added administrative expenses related to inspection and enforcement.

(4) Added Country-of-Origin Labeling would be Misleading: Marking requirements are historically used to identify products of foreign manufacture to their ultimate consumer. Once meat is processed into sausage, hamburger or other processed products it has undergone a substantial transformation and thereby becomes a product of U.S. origin. This consideration is especially prevalent when imported meat is combined with domestic meat in the United States to create a new and different article with a different name, character or use. To require such articles to be marked as though they are of foreign origin or to identify that some of the meat involved was originally of foreign origin would run counter to a long-standing Customs practice with regard to the treatment of such commodities. It would negate, in part, the principle of substantial transformation, and it will mislead consumers.

(5) Added Labeling on Meat and Food Products Would Be Discriminatory: Added labeling on meat and food products would discriminate against a class of products. Many commodities are imported into the United States without being subjected to extensive marking requirements. There is not any public interest that requires meat to be treated differently than other food products entering the United States. Current inspection and labeling programs provide adequate information to U.S. consumers without unduly burdening international trade. If there is some need to inform U.S. consumers of the origin of meat and meat products to a greater degree than current law provides, then certainly this same reason would justify these new marking requirements being applied to all imported commodities equally.

(6) Added Labeling Requirements Would Violate GATT: The declaration agreed to by the United States at Punta Del Este created a political agreement with three major standstill provisions. First, the United States agreed not to adopt any new measures that would violate GATT. Second, the United States agreed not to adopt any new measures which, although technically authorized under the GATT, are actually far out of proportion in relation to the act or practice they are designed to address. Third, the United States agreed not to adopt any measures that would improve its negotiating position during the Uruguay Round of multilateral trade negotiations. The declaration adopted at Punta Del Este represents a political agreement that the United States should adhere to without violation or equivocation.

Legislation that creates more restrictive marking requirements and alters the existing rules of origin would violate both the GATT and the Declaration adopted by the United States at Punta Del Este.

Article IX, paragraph 3, of the GATT indicates that marking regulations should be constructed "to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost."

The type of legislation now under consideration would produce the same effect as the marking requirements previously considered for fresh fruit and vegetables. Legislation that enhances the marking requirements for meat also violates the first standstill provision already discussed. It would amount to a case in which the United States adopted a new measure that was violative of GATT, since any such marking requirements are likely to significantly reduce the value of these products in several respects discussed above, and it will lead to a substantial increase in cost, resulting in a competitive disadvantage vis-a-vis domestic product.

Rules of origin have been tabled for discussion during the Uruguay Round of Multilateral Trade Negotiations. By adopting the Punta Del Este Declaration, the United States bound itself not to implement new measures which would improve its negotiating position during the multilateral negotiations. Instituting more stringent marking requirements will effectively alter the rules of origin. Meat products which are substantially transformed in the United States become products of U.S. origin. Requiring such products to be marked as though they are in whole or in part of foreign origin after they have been substantially transformed can be construed as violating the standstill provision relating to negotiating positions.

Conclusion:

For the foregoing reasons, MICA respectfully urges that the Subcommittee conclude the hearings without a recommendation that legislative proposals be developed which would impose added or more strict labeling requirements upon imported meat or products made from imported meat.

Respectfully submitted,

MEAT IMPORTERS COUNCIL
OF AMERICA, INC.
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September 30, 1988

Statement of E. Linwood Tipton, President, International Ice Cream Association and Milk Industry Foundation

The International Ice Cream Association and Milk Industry Foundation oppose requiring country-of-origin labeling on food products. Such a requirement would be costly to the food industry and to consumers, could limit supplies, and would provide no off-setting benefit.

The International Ice Cream Association (IICA) represents manufacturers of ice cream, frozen desserts and snacks with over 600 plants and distribution centers located in all 50 states. Its member companies process an estimated 85% of the ice cream and ice cream-related products consumed in the United States.

The Milk Industry Foundation (MIF) is the national trade association representing processors and distributors of fluid milk and milk products. Member companies own and operate over 400 plants throughout the 50 states, processing approximately 80% of the fluid milk and milk products consumed in the United States.

Yogurt, ice cream and ice cream novelty manufacturers, whose use and mix of domestic and imported ingredients ranging from nuts and extracts to fruits and candies can vary month-to-month or even weekly, would find a country-of-origin labeling requirement particularly burdensome.

And, while primarily engaged in milk processing, a majority of companies who are members of the MIF also process fruit juices. As such, these food processors would be substantially and adversely affected by requirements that their product labels bear the source of concentrate contained in the particular package of juice.

If adopted, mandatory country-of-origin labeling would significantly increase production costs either directly, through increased labeling costs, or indirectly, by necessitating changes in current purchasing practices. For example, historically apple juice concentrate has been imported from as many as 35 countries. Requiring juice processors, yogurt or ice cream manufacturers to maintain label inventories to satisfy all possible combinations of sources of supply, would place a substantial economic burden on these industries.

To avoid this burden, processors could limit the sources of supply, but, this would restrict their ability to make "spot" purchases which can result in significant savings, and which are sometimes necessary for blending to ensure a consistent, high-quality product. Further, by reducing the available supply, processors, and in turn consumers, will ultimately be faced with higher prices.

The mere listing of countries' names on package labels is meaningless and can in no way provide useful public health information to the average consumer. Proper and thorough inspection of imported products that are in question at the point of entry into the United States is the best source of consumer protection against potential health threats, not listing countries-of-origin on product labels.

Action requiring labeling of food products with country-of-origin information would be not only unnecessary and confusing for the average consumer, but also costly to both food processors and consumers. We urge Congress to reject proposals for mandatory country-of-origin labeling.

STATEMENT OF THE NATIONAL COFFEE ASSOCIATION OF U.S.A., INC SUBMITTED TO THE SUB-COMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS OF THE U.S. HOUSE OF REPRESENTATIVES ON COUNTRY-OF-ORIGIN LABELING REQUIREMENTS FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS SEPTEMBER 30, 1988

The National Coffee Association of U.S.A., Inc. (NCA) is the national trade organization of the coffee industry of the United States. Its membership consists of green coffee dealers and importers, and coffee roasters representing 90 per cent of the coffee sold in this country. Coffee is one of the largest agricultural commodities imported into the United States.

The NCA opposes any requirement for country-of-origin labeling that would apply to coffee sold in the United States for the following reasons:

1. Virtually no coffee is grown in the United States. More than 99% of the coffee roasted and sold in the United States is imported. (A very small quantity is grown in Hawaii, less than one-tenth of one percent of all coffee consumed in the United States.) Coffee is imported from about 50 foreign countries. The unroasted foreign coffee is subject to the statute and regulations -- that is, it is labeled (in bulk) according to the country of origin. Moreover, under the International Coffee Agreement, Article 43(7), to which the United States is a party, the coffee must be accompanied by a "certificate of origin," issued by the producing country.

Consumers are already aware that virtually all coffee is imported, and there is no choice between a domestic and a foreign product to be made by coffee consumers. No roaster would have any reason to pass off an imported coffee as an American product, and the small Hawaiian coffee growers, who have a ready market for whatever coffee they can grow, have no reason to fear improper foreign competition. Consequently, there is no reason to change the existing country of origin labeling rules with respect to roasted coffee.

2. If coffee which has been roasted, blended and ground by United States roasters is required to be labeled under the country of origin regulations, the economic burden would be prohibitive. There are about 50 coffee exporting countries, and the United States imports coffee from virtually all of these countries. Roasters generally include coffee from many different countries in their blends. It would obviously be cumbersome, and not very informative to consumers, to include such a long list of countries on the label of every can or jar of coffee sold. What is important to consumers is the availability of a uniform quality and taste of a particular brand of coffee. The quality of coffee from a particular country varies continually as a function of location, growing and climatic conditions, seasonal variations, storage condition, etc. In order to achieve the uniformity consumers expect, roasters must frequently vary their blends by using coffees from many origins in constantly varying proportions.

A major problem in country-of-origin labeling arises from this need for roasters to change their blends almost constantly -- sometimes as often as weekly or even daily -- in order to maintain product quality and cost requirements. Which coffees a roasters buys depends on many factors: country-to-country price differences, availability, shortages in a particular country's product, transportation schedules, the kinds of coffee needed by a company's blends (milds, arabica, robusta), the quality of a particular country's coffee, or the quality of a particular lot of coffee.

The precise composition of a roaster's blend at any time reflects the coffee its buyers have purchased in the recent past, which in turn is a reflection of all of the factors listed above. Any one of these factors may result in the temporary addition of a particular country's coffee in a roaster's blends, or its temporary omission. Moreover, the relative amount of coffee from one country in a blend may vary as a result of these factors. Thus under the proposed regulations, every time a roaster changed its blend it would probably have to change its label, and as noted above, the composition of the blend may change as often as several times a week. In effect, therefore, roasters would have to prepare labels on a daily basis, and thus could not use pre-printed containers (such as lithographed cans) unless some very costly method such as paper labels were used to indicate countries or origin. With 50 possible countries as sources or coffee, the burden of preparing and applying the correct label to each batch of coffee would be simply staggering.

3. The only alternative to such day-by-day labeling would be for roasters to adopt a fixed blend and not vary their purchases as often to reflect market or quality change in coffee. This would have a number of obvious adverse effects. Roasters would not be able to maintain a uniform quality for their branded products. In addition, roasters would not be able to take advantage of fluctuations in green coffee costs, and if committed to the coffee of a particular country might end up paying a premium for that coffee in the event of a shortage or excess demand (whereas now the roaster might seek out coffee of comparable quality from another country at a lower price). The clear effect of this would be to increase roasters' total costs, to the detriment of both roasters and consumers.

4. Any regulatory changes which might affect the purchasing patterns of United States roasters could have significant effects on United States international relations. The coffee exporting countries include leading South American countries such as Brazil and Colombia, as well as many smaller producers in Central America, Africa and Asia. Many of the small producer nations depend heavily on revenues from coffee exports; many also are recipients of United States aid or have large debt obligations to United States lenders.

These smaller countries may suffer if the proposed regulation leads roasters to use coffee from fewer countries, and to eliminate from their blends coffee from small producing countries whose products may not always be available.

In summary, consumers know that essentially all coffee is imported. Therefore, there is no danger of consumer confusion or the passing off of foreign coffee as a United States product. Requiring roasters to identify each growing country on their labels would be extremely difficult and costly, would promote no public policy or consumer benefit, would not affect domestic agricultural producers and would in fact work to the detriment of all parties.

We therefore state our opposition to country-of-origin labeling that would apply to coffee sold in the United States. If country-of-origin requirements are enacted we respectfully request that coffee products be specifically exempted.

NATIONAL FISHERIES INSTITUTE, INC.

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September 30, 1988

Robert J. Leonard
Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

The National Fisheries Institute (NFI) appreciates the opportunity to comment on proposals to expand country of origin labeling requirements for food products. NFI is a trade association of over 1,000 member companies engaged in the harvesting, processing, distribution and sale of fish and seafood products. Since over sixty percent of America's seafood supply comes from overseas, including imports from approximately 150 nations, NFI has a significant interest in legislation extending country of origin labeling requirements for food products.

The country-of-origin labeling requirements of current law are sufficient to ensure a safe and wholesome seafood supply. A shift to additional labeling requirements promises little consumer benefit. A substantial portion of fish and seafood is consumed in restaurant and other food service trade where labeling requirements prove irrelevant for consumer education. In retail sales, seafood consumers concerned about quality can judge from visual examination of the product, evaluation of brand name and other straightforward methods whether they wish to purchase the product.

Currently, only imported seafood products undergoing substantial transformation as a result of U.S. processing do not indicate country of origin. NFI believes the standard of substantial transformation at times is confusing and unduly restrictive. A look at an existing situation demonstrates how use of the substantial transformation test can penalize U.S. processing operations competing with foreign processors.

U.S. shrimp processors are currently experiencing confusion with respect to the determination of substantial transformation for imported shrimp. The U.S. Customs Service issued a ruling in June, 1988 that imported shrimp peeled and deveined in U.S. processing plants is not considered substantially transformed. This interpretation, requiring country of origin labeling to be

retained to the ultimate purchaser, differs from historical practice of the shrimp industry.

The Customs Service declaration, perhaps more importantly, contradicted the position of the U.S. Department of Commerce which conducts a voluntary seafood inspection program. The Department of Commerce has been approving packaging without country of origin labeling for imported raw shrimp peeled in this country and processed under federal inspection.

The Customs Service's application of substantial transformation guidelines to peeled and deveined shrimp has raised numerous questions causing confusion and uncertainty within the industry.

Seventy percent of the shrimp consumed in the U.S. is imported. Over ninety nations serve as sources of supply. Individual processors customarily purchase shrimp from three to five countries and frequently mix shrimp from different nations together during processing. The recent Customs Service ruling on peeled and deveined shrimp will impose an additional and substantial regulatory burden on U.S. processors with no significant recognizable consumer benefit. Moreover, U.S. processors providing a better quality pack than foreign processors are at a competitive disadvantage in the marketplace since both packages are required to list the country of origin. In this case, substantial transformation could lead to loss of U.S. processing jobs and loss of U.S. value added processing of imported raw product.

Extending country of origin labeling requirements to products that already meet the substantial transformation test will exacerbate an already troublesome situation.

NFI's suggested approach, therefore is counter to the legislation being considered by the Subcommittee. We propose that Congress require the Customs Service to more carefully consider the views of expert agencies when determining whether a product is substantially transformed. The Customs Service cannot be expected to be expert in the processing practices of so many diverse manufacturers. In the case of shrimp, certainly the Department of Commerce which runs a seafood inspection program can better judge whether a product meets the standard of substantial transformation. Commerce's opinion ought to carry more weight during such deliberations.

NFI thanks the Ways and Means Subcommittee on Trade for its consideration and we look forward to working with you in the future.

Sincerely,

Jim Gilmore

Jim Gilmore, Director
Congressional Relations

NATIONAL JUICE PRODUCTS ASSOCIATION
Headquarters: 215 Madison Street/P.O. Box 1531/Tampa, Florida 33601/813 229-1068

September 30, 1988

The Honorable Sam Gibbons
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The National Juice Products Association ("NJPA") is a voluntary trade association comprised of 74 companies that process fruit juice products. We are pleased to submit this statement in connection with the September 27, 1988 hearing before the Subcommmittee on Trade regarding country-of-origin labeling requirements for imported meat and other food products.

NJPA members produce a wide variety of fruit juices, including orange, apple, cherry, cranberry, grape, grapefruit, lemon, lime, pineapple, prune, and tangerine. Most NJPA companies, by necessity, use imported as well as domestic concentrate in their production of these juices. NJPA associate members supply labels and packaging to these and other fruit juice processors.

We understand that the Subcommittee is particularly interested in comments concerning whether labels should identify the country of origin of food ingredients, as well as the final products, and that the Subcommittee, in addition to examining domestic policy issues, is studying the international trade implications of labeling requirements. We hope our comments will help the Subcommittee in these efforts.

First, we oppose Congressman Lewis' bill, H.R. 2920, and any similar legislation that in effect requires country-of-origin labeling of ingredients irrespective of whether the final product meets the "substantial transformation" test applied under the country-of-origin marking statute. That test provides that a retail product would not have to be marked with the country of origin of an imported component if, by virtue of the U.S. manufacturing or processing operations, the imported component is "substantially transformed."

While we disagree with H.R. 2920's extension of country-of-origin marking to ingredients without concern for whether substantial transformation takes place, the manner in which the bill proposes marking to be carried out has some merit and deserves consideration. Specifically, H.R. 2920 would require a container to indicate the country of origin if the imported meat is from just one country, but if the imported meat is from more than one source the container could be marked "as containing imported meat or an imported meat food product" generally. We believe that an even more sensible method of marking would be to permit containers to indicate the presence of an imported component even in those instances in which the import is from just one source. Under such a requirement, food processors could satisfy the underlying purposes of the country-of-origin marking statute while minimizing compliance costs by using a single standardized label.

This method of marking is inherently less burdensome on the processor and less costly to the consumer than a requirement that the container identify each actual source of imported ingredients in the particular container -- as the U.S. Customs Service has proposed recently concerning fruit juices. In 1987, Customs required the U.S. orange juice industry to mark the country of origin of imported concentrate on all retail packages. This was an extremely costly and time-consuming task. More recently, Customs has proposed "actual supplier" country-of-origin marking on all retail containers of fruit juice, under which all fruit juices made from concentrate would have to be labeled to indicate all actual sources of imported concentrate contained in each

particular package of juice. Customs would also eliminate "major supplier marking," a practice that has been used by the orange juice processing industry since it was first required to comply with country-of-origin marking of these products in February 1987.

Customs' proposal greatly concerns the juice processing industry for several reasons. First, it cannot be justified on the basis of the public health concerns that Customs has alleged. Customs suggests that "actual supplier marking" is needed because "major supplier marking" may not give adequate information to apple juice consumers due to the wide variety of sources and frequency of changes in those sources, and because of alleged public health concerns. The implication of this position is that, by giving consumers an exact listing of all source countries of the imported concentrate in a particular package of juice, the consumer will benefit from being given the opportunity to inspect the country listing and personally determine whether the package contains pesticides that the United States prohibits for use on domestic fruit crops.

The safety of food products is a concern that the juice processing industry shares with Customs, and maintaining consumer confidence in our products is of the highest priority. However, it is clear that Customs' proposal is not justified for reasons of food safety. The U.S. Food and Drug Administration, having statutory responsibility for food safety enforcement, has told this to Customs in its comments on the "actual supplier marking" proposal. A copy of these comments is appended hereto. Significantly, the FDA states that Customs' primary rationale -- that requiring "actual supplier marking" is necessary to permit FDA to trace the origin of imported concentrate containing pesticide residues -- is an unfounded allegation. The FDA also challenges Customs' allegation that the United States has a pesticide residue problem in imported foods, saying that this "is simply not supported by FDA monitoring data." The research conducted in this regard, in fact, has found that the situation is quite to the contrary. A 1986 General Accounting Office report corroborates an FDA study that determined in a two-month sampling of all imports of apple juice concentrate that most of the samples contained no detectable pesticide residue levels, and the few residues detected were well within allowable limits.

The "actual supplier marking" proposal also concerns the juice processing industry because it reflects a trend in marking requirements for food products that are becoming increasingly more burdensome on processors and costly for consumers, with seemingly no thought being given to the underlying purposes of the country-of-origin marking statute. As you know, the principal purpose of the marking statute is to mark the goods so that at the time of purchase the ultimate purchaser will know where the goods were produced and be able to "buy American" if that is the purchaser's choice. In enacting the marking statute, Congress was aware that many consumers prefer merchandise produced in the United States and sought to give an advantage to domestic producers of competing goods. The marking statute, however, was enacted in the last century, when U.S. import trade was only a fraction of present levels, and when U.S. food processors were not able, for reasons of transportation and other practical barriers, to engage as they do today in worldwide sourcing of agricultural commodities.

The country-of-origin marking statute presently contains a provision recognizing that practical considerations must be taken into account in enforcing the marking requirement: the statute specifically exempts imported goods from marking when marking cannot be effected except at an expense that is "economically prohibitive." The administrative and legislative proposals currently being considered all fail to consider the exceptional economic burdens they would place on food processors who, because they need to source globally for reasons of price, quality, and supply, cannot implement the proposals except at an expense that is truly economically prohibitive. We believe that because of the distinctive position in which food processors find themselves, the Subcommittee should consider imposing a more reasoned, balanced approach to country-of-origin marking of food products.

The approach we propose would still first consider whether an imported component is "substantially transformed" by U.S. processing or manufacturing operations, and only if it is not substantially transformed would country-of-origin marking be required. Where marking is required, we believe the marking statute could faithfully be carried out by permitting a statement on the product indicating that the product contains an imported input, such as "Contains imported concentrate" in the case of a fruit juice product. This approach would inform the purchaser that the product is not a U.S. product, allowing the purchaser to "buy American" if that is his or her choice, and the purpose of the marking statute would be fulfilled. Food processors could also implement the statute in a reasonable manner, being able to use a single standardized label on food products containing imported components. The cost of compliance would be dramatically reduced, and consumers would benefit in turn. Further, this method of marking would have minimal effect upon processors' sourcing decisions, and present concerns about the trade-distorting effects of the marking statute could be appeased. We sincerely hope that your Subcommittee will give this proposal foremost consideration.

Thank you for the opportunity to present our views to the Subcommittee.

Sincerely,

David C. G. Kerr

David C. G. Kerr
General Counsel

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

AUG 11 1988

Mr. Marvin Amernick
Chief, Value, Special Programs,
and Admissability Programs (Room 2104)
Office of Regulation and Rulings
U.S. Customs Service
1301 Constitution Avenue N.W.
Washington, D.C. 20229

Dear Mr. Amernick:

In the Federal Register of June 7, 1988, (53 FR 20869), the Customs Service has proposed an interpretative rule that all fruit juice made from foreign juice concentrates be required to be labeled to indicate all actual sources of concentrate contained in the particular package of juice. We are writing to you regarding the Food and Drug Administration's concerns about the primary rationale given for this proposal.

According to the preamble to the proposed rule, all countries of origin of fruit juice concentrate must be listed on juice containers. One basis for requiring this information is an allegation that it is necessary to permit FDA to trace the origin of imported concentrate containing pesticide residues. In our opinion, this allegation is unfounded.

FDA's monitoring and enforcement program for pesticide residues focuses on imported food when the shipments are offered for entry into U.S. commerce. If an illegal pesticide residue is found in the food, the shipment is refused entry. By covering imports at their point of entry, we also know from which country the shipment originated and to which country we may need to direct any follow up action for possible future violations. Because of our import sampling strategy, it is usually unnecessary to further sample imported foods in domestic commerce or to be concerned about tracing such food back to the country or countries or origin. Therefore, listing the country of origin on the labeling of retail packages of juices will not be of assistance to FDA's pesticide monitoring efforts.

The Custom Service proposed rule also iterates concerns raised by others regarding the potential public health threat posed by pesticide residues in imported fruit juices. Such a threat is not borne out by FDA monitoring data. FDA has sampled imported fruit juice concentrates from various countries and to date, none of the samples contained illegal pesticide residues. In fact, the majority of the samples contained no detectable residues. We want to add that our monitoring efforts include analyzing for pesticides that have had their registrations cancelled in the U.S. Therefore, the allegations suggesting that banned pesticides are being used on foreign fruit destined as concentrates for shipment to the U.S. is simply not supported by FDA monitoring data.

Further, we are concerned that the Customs rulemaking based on these erroneous allegations could be misconstrued and undermine FDA's statements to Congress and the public that pesticide residues in food do not pose a threat to the public health. This conclusion is based on years of extensive monitoring that has shown that the levels of pesticide residues and violation rates for both domestic and imported food are comparably low.

We hope that the information provided in this letter explains clearly why at least one aspect of the rationale used by Customs in its June 7 notice of proposed rulemaking is incorrect. Please understand that we are not commenting on the proposed labeling requirement per se but rather to let you know that the proposed labeling will not assist FDA's pesticide monitoring efforts.

If you have any questions or need additional information, please let me know (443-1815).

Sincerely yours,

John R. Wessel
Director, Contaminants Policy Staff
Office of Regulatory Affairs

TESTIMONY

OF

DANIEL J. MURPHY
DIRECTOR, GOVERNMENT AFFAIRS
NATIONAL WOOL GROWERS ASSOCIATION

The National Wool Growers Association is pleased to have this opportunity to present its views on the important issue of country-of-origin labeling of imports of meat and other food products. We commend the Ways and Means Committee and especially you, Mr. Chairman, for your decision to hold these hearings. Hopefully, further action on this matter can and will be taken in the 101st Congress.

The National Wool Growers Association is the national voice of the United States sheep industry. We are a federation of 37 state and regional sheep organizations representing the nation's 115,000 sheep ranchers and farmers.

Country-of-origin labeling is of upmost importance to the United States sheep industry. We strongly favor action by the Congress to require that imported lamb meat be labeled as to country-of-origin at all processing steps, from the time it reaches our shores until it is purchased in the grocery store or selected on a restaurant menu.

Consumers have a right to know what they are buying. Consumers have a desire to know what they are buying.

The United States sheep industry annually spends millions and millions of dollars to improve our meat products for the consumer. New breeds of sheep are being developed to improve efficiency. New efforts are being made to produce and market an animal that is lean and even more appealing to the consumer. Millions of dollars are being spent to advertise the lean, delicious and nutritious product we have for the American people.

The American Sheep Producers Council, the promotional arm of the United States sheep industry, has conducted an indepth survey and analysis of consumer taste preferences with lamb. The Council found that most American's clearly prefer the taste and flavor of U.S. lamb. They find imported cuts of lamb inferior in quality. Yet, under current regulations, once the imported lamb carcass is dismantled, imported lamb cuts are not required to bear the country-of-origin label. They can and are sold side-by-side U.S. fresh lamb as if the products were identical, which they clearly are not.

What's worse, U.S. sheep industry promotional funds are actually used to entice consumers into the grocery stores where they often end up unknowingly buying a product that is both foreign and inferior. Our credibility suffers with the consumer everytime they buy foreign product but wanted domestic. Our ability to hold the consumer as a repeat and reliable buyer of U.S. lamb is undermined. Our efforts to strengthen our industry are made that much more difficult.

It is apparent that there is considerable controversy surrounding the issue of country-of-origin labeling. It would be a formidable task to label all meats and meat products that are imported inasmuch as a great deal of the imported meats are not sold as retail cuts but used in processed goods. It may be that labeling would not be practical for every sector of the meat producing and processing industry. But there is no practical reason why the legs, chops, shanks, and shoulder cuts of imported lamb cannot and should not be labeled in the meat case or on a restaurant menu for the benefit of the American consumer. It would not be costly, it would not be complex. It would not be difficult to administer.

Mr. Chairman, over the past seven years, annual lamb imports have been averaging between 25 and 35 million pounds. Most of it comes from New Zealand and Australia, half way around the world. Despite all the advances in technology, when New Zealand or Australian product is sold side-by-side with U.S. fresh lamb, the imported product is not as fresh as the U.S. product. It is not as tasteful or flavorful. It is a different product.

The issue is not to prohibit or limit imports of lamb, rather to be able to distinguish the imported product from the domestic product when they are presented to the consuming public. We believe in our product. We are confident the consumer will too, and will select American grown lamb if he or she is given the opportunity to know that it is American.

Again, we commend the Subcommittee for holding these hearings. We hope that reasonable action can be taken in the next Congress to protect the consumer from look-alikes that aren't alike, and from imported lamb products the American consumer does not prefer to purchase.

Before the
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAY AND MEANS
U. S. House of Representatives

Washington, D.C.
September 30, 1988

Country of Origin Labeling Legislation

Statement on behalf of
the New Zealand Meat Producers Board

This statement is submitted on behalf of the New Zealand Meat Producers Board to express their concern with various legislative proposals that have been offered to expand current requirements that imported meat and other food products be labeled as to country of origin.

The New Zealand Meat Producers Board is the representative of the livestock producers of New Zealand and is financed by a self-imposed export levy on the producers. It is the only New Zealand organization promoting meat on an international scale, undertaking a variety of advertising and public relations programs in many world markets. While the Board does not normally export on its own account, it has responsibility for the overall coordination of export activities as well as for the grading of meat.

The United States market is a major export market for New Zealand beef and lamb. Hence, the Board has viewed with concern the various labeling bills which have been introduced over the years with the guise of consumer protection masking their true protectionist intent. Most recently, such proposals were offered during consideration of the Trade bill and are currently the subject of this Subcommittee's notice of hearing and comment dated September 7, 1988.

The implication of these proposals is that meat and other food products are somehow alone, that they enjoy an exemption from being labeled that is not enjoyed by other products. Statements are often made by proponents of this type of legislation that imported meat is not required to be labeled with the country of origin upon importation. This is simply incorrect. Under Section 402 of the Tariff Act of 1930 all imported products must be labeled to reflect the country of origin to the ultimate purchaser. That a new product, such as a frankfurter, that employs some imported meat, is not required to be labeled to show that content is no different from the fact that there is no requirement to show the imported steel content

This material is prepared, edited, issued or circulated by Bronz & Farrell, 2021 K Street, N.W., Washington, D.C. 20006, who is registered under the Foreign Agents Registration Act of 1938, as amended as an agent of the New Zealand Meat Producers Board. This material is filed with the Department of Justice where the required registration statement is available for public inspection. Registration does not indicate approval of this material by the United States Government.

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of a U.S. made car, or the imported stainless steel content of a pair of shears, or rubber in a tire.

The labeling proposals before the Committee would, if read literally, require every frankfurter sold at a ball park to have a label on it if any part of the meat in that sausage mix was imported. Literally, in fact, the housewife who prepared a meal including some imported meat would have to label the plates on which she served it.

The notion of requiring imported products to be relabeled with the country of origin or with a designation of importation every time a bit of the product enters into another product has long been a favorite proposal of those trying to devise obstructions to import trade. These attempts, when made at the state level, have been struck down by Federal District Courts as unconstitutional impairments to trade. There has never been a Federal repackaging law, but there have been attempts.

There was a repackaging bill that was applicable to products of all kinds which was vetoed by President Eisenhower in September of 1960. He pointed out that the bill would impose burdens on international trade and on the U.S. companies that were handling imports, and that it could readily lead to restrictive action by other countries on American goods. Such a bill was also vetoed by President Johnson in 1963, who again pointed out that the bill would raise new barriers to foreign trade, would invite retaliation, and would impose costs upon U.S. merchants and consumers.

Imported meat products often find their way as minor ingredients of a whole host of American-made products such as soups and stews, and are used widely in restaurants in preparing meals. To require a label on every product containing the slightest bit of imported material could serve no other purpose than as a harrassment to international trade, a discouragement to the use of imports, and an impossible enforcement job for some unspecified police force which would presumably have to visit food plants, restaurants, and other establishments using imported meat products. The only possible use of such a provision would be to discourage American merchants from handling imported meat products at all. This is clearly in contravention of the United States obligations under the GATT.

The "national treatment" clause of the GATT -- Article III -- is one of the linchpins of that agreement. Broadly speaking, it requires that GATT members treat imported products no less favorably than they treat their own with respect to matters under government control such as taxation and regulation. It is in the regulatory area that these labeling proposals would be in violation. Specifically, paragraph 4 of Article III provides that:

> "The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to the like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use..."

The proposals here are clearly violative of this obligation to treat imported products "no less favorably" than like products of national origin "in respect of all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use." The essence of the national treatment requirements of Article III is that goods moving in international trade are to be treated on the same basis as goods that do no cross national boundaries. The U.S. cannot arbitrarily change those principles.

A GATT signatory has the right under Article IX to enact measures providing for marks of origin. However, Article IX(2) is explicit in recognizing that

> "in adopting and enforcing laws and regulations relating to marks of origin, the difficulties and inconvenieces which such measures may cause to the commerce and industry of exporting countries should be reduced to a minimum, due regard being had to the necessity of protecting consumers against fraudulent or misleading indications."

Further, this provision may be utilized only subject to the requirement that such labeling measures are applied in a manner "as to permit compliance without seriously damaging the products, or materialy reducing their value, or unreasonably increasing their cost." [1]

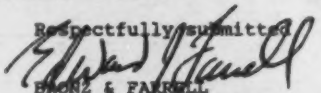
These labeling proposals do not come within this provision. The specific requirements of the labeling proposals certainly do nothing to "reduce to a minimum" the inconvenience which they cause in - in fact, quite to the contrary they create inconvenience with no showing of "protecting consumers against fraudulant or misleading indications." Further, as we are sure importers will detail, they would "unreasonably increas(e) their cost."

Given the historical and continuing recognition of the potential for abuse of labeling regulations, it is not enough for the U.S. to arbitrarily promulgate and enforce regulations without a showing that there is a need for a particular activity to be regulated in order to protect or inform the consumer and that the regulation adopted reasonably addresses that need. The proposals discussed here fail to fall within the provisions of Article IX because they are not justified by any specific evidence showing need.

Finally, as mentioned above, it is hardly a secret that the proponents of inspection and labeling provisions are not concerned solely with consumer protection. It is often candidly admitted that such bills are sponsored as much for trade protective reasons as for reasons of public health. We submit that even apart for GATT considerations, those protectionist objectives have no place in your considerations. The United States, the world's greatest exporting and importing country and the leader in efforts to achieve good international trade policies, should not be open to the suspicion that it is erecting a trade barrier under the guise of a consumer protection measure.

The United States and New Zealand are both agricultural exporting countries. Both share an interest in facilitating international trade in agricultural products and in resisting the proliferation of governmental requirements which obstruct the free flow of trade. A precedent set by the United States in the agricultural field might very well prompt other countries of the world to enact similar requirements applicable to United States exports. Indeed, labeling requirements could be devised not only for foods, but also for other agricultural and industrial products. As the Uruguay round reaches its midpoint, a more inappropiate signal would be hard to send.

Respectfully submitted,



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Edward J. Farrell
Of Counsel

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[1] Article IX(4)

Statement of
THE HONORABLE JAMES L. OBERSTAR

before the House Ways and Means Committee,
Subcommittee on Trade Hearing on country-of-origin
labeling requirements for imported meat

September 27, 1988

Mr. Chairman, I would like to register my support for H.R. 2920, the Federal Meat Inspection Act Amendments of 1987. I commend the efforts of the Honorable Tom Lewis for initiating and supporting this valuable bill.

I cosponsored the bill because I believe that consumers have a right to know about the quality and origin of the meat which they purchase. The current USDA labeling requirements do not go far enough. Though USDA requires some imported meat to be labeled with country-of-origin, imported meat which is processed or blended once is exempted from the requirement. This bill will correct that inconsistency, requiring all imported meat to be labeled.

Livestock producers in Minnesota's 8th District and in the State of Minnesota are proud of their high-quality meat products. Minnesota ranks third in the country in hog production and ninth in cattle/calves production, generating a total of over $1.6 billion each year. Consumers need to know about the care and quality that goes into the production of these meats. I think it is only fair that consumers are given information about quality and origin when making decisions about the purchase of processed or blended meat.

Thank you.

TESTIMONY OF THE PROCESSED APPLES INSTITUTE
BEFORE THE SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
HEARING ON COUNTRY OF ORIGIN LABELING REQUIREMENTS
FOR IMPORTED MEAT AND OTHER FOOD PRODUCTS
September 27, 1988

Mr. Chairman and Members of the Committee:

The Processed Apples Institute (PAI) is an international organization of companies manufacturing processed apples products. The majority of its members manufacture apple juice from both fresh apples and apple concentrate, including imported concentrate. It is estimated that more than one half of the apple juice manufactured in the United States is produced by Processed Apples Institute members. Moreover, we estimate that our members use more than fifty percent of all the apple concentrate imported into the United States.

The PAI is necessarily concerned with legislative and regulatory activities affecting its members' products and is therefore pleased to submit the following comments with respect to the U.S. Customs Service's present interpretation of the Country of Origin Marking Statutes. In particular, we wish to address the Service's June 7, 1988, proposed abandonment of the Major Supplier Marking Rule as it relates to products manufactured from imported juice concentrates other than orange concentrate.

BACKGROUND

On September 4, 1985, in CSD 85-47, the Customs Service held that imported orange juice concentrate is not "substantially transformed" after undergoing further processing in the United States, and therefore that containers of orange juice concentrate processed in the United States are subject to the Country of Origin marking requirements of § 304, Tariff Act of 1930, as amended (19 U.S.C. § 1304). On March 19, 1986, in CSD 86-19, the Customs Service ruled that orange juice containers would meet the marking requirements if only the major foreign sources of the imported product were listed. ("Major Supplier Marking"). On June 30, 1986, the Customs Service announced that the principles set forth in CSD 85-47 were applicable to all imported fruit juice concentrate, and comments were solicited as to the appropriate implementation date. 51 Fed. Reg. 27195 (July 30, 1986).

In an effort to clarify whether and how Major Supplier Marking would apply to imported juices generally, juice processors met with Customs Service officials on September 10, 1986. As reflected in a letter to the Director of Regulations and Rulings that same day (attached hereto as Exhibit A), the Customs Service officials indicated that Major Supplier Marking requirements would be satisfied if the container listed the countries supplying at least 75% of the imported juice contained in the product, but in no event would more than five sources need to be listed.

On June 7, 1988, the Customs Service announced that the implementation date for application of Country of Origin marking requirements to all fruit juices would be June 7, 1989. 53 Fed. Reg. 20836 (June 7, 1988). The Customs Service further announced that "Major Supplier Marking" procedures currently applicable to Country of Origin marking for orange juice products would initially be applicable to other juice products as well.1/ In so deciding, however, "Major Supplier Marking" was restrictively described so as to apply only to cases in which a single country is responsible for 75% or more of the

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1/ In another document published the same day, Customs proposed to eliminate Major Supplier Marking procedures altogether, and invited written comments. 53 Fed. Reg. 20869 (June 7, 1988).

imported juice in the final product. Under this definition, when the one country test was met, the container would bear only the name of that one country; in all other cases, every country supplying juice to the product, however small the amount of juice supplied, would have to be identified on the container.

Major Supplier Marking as Now Interpreted by the Customs Service and Applied to Apple Juice Concentrate is Tantamount to the Elimination of Major Source Marking

As of September, 1986, it was the Processed Apples Institute's understanding, based upon its meeting with Customs Service officials, that a reasonable interpretation of Major Supplier Marking was in place, applicable to concentrated orange juice and to be applicable to other juice concentrates, in which juice containers were to identify the countries supplying at least 75% of the imported juice present in the product, but in no event would the containers need to identify more than five major sources. In its June 7, 1988, Federal Register notice, however, the Customs Service suddenly jettisoned this understanding and instead asserted an interpretation making Major Supplier Marking unavailable in all cases except where a single source is responsible for 75% or more of the imported juice contained in the product.

Such a rule is tantamount to rendering Major Supplier Marking unavailable to apple juice processors. While orange juice processors may have a single primary source of imported juice, and may be able to comply with the 75% rule in most if not all cases, apple juice processors have over 30 countries supplying juice, no one of which supplies more than 30% of the U.S. market, so that it is extremely unlikely that a single source of imported apple juice will comprise 75% or more of a processor's concentrate. Thus, the Customs Service's June 7, 1988 interpretation has effectively left apple processors with no possibility to us a Major Supplier Marking rule.

The June 7, 1988 Interpretation of Major Supplier Marking Imposes an Unreasonable Economic Burden on Juice Processors, Renders Compliance Difficult if Not Impossible and Will Confuse Rather Than Inform Consumers

Section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1304 (a) (3) (K), (b) specifically authorizes an exception from marking requirements for articles that "cannot be marked after importation except at an expense which is economically prohibitive." Many comments received in response to the Customs Service's July 30, 1986 announcement, objected to the application of Country of Origin marking requirements as economically burdensome, at least in the absence of a rule permitting juice processors to list only major as opposed to all suppliers of imported juice used.2/

The thrust of these comments was that while only one country - Brazil - is responsible for an appreciable quantity of orange juice imported into the United States, as many as 38 countries are sources of imported apple concentrate. Individual processors reported utilizing concentrate from as many as 13 countries in a given year; moreover,

2/ See, e.g., Comments of the Milk Industry Foundation, the National Juice Products Association, the National Food Processors Association, the Florida Citrus Processors Association, Sunglo Cooperative, Inc., Purcell &Associates, Sunbase USA, Inc., Yakima Valley Grape Producers.

the juices of different countries are used in perpetually changing combinations.3/ As many commenters pointed out, if apple juice processors are required to list each and every country contributing imported juice to their product, no matter how inconsequential their contribution, and must do for ever changing combinations of countries, the net effect will be to increase unreasonably the production costs that must ultimately be borne by the juice consumer.4/ Indeed, this position is supported by the Customs Service decision to apply major source marking to honey, in which the Customs Service noted that "to require an exact disclosure of the countries of origin in each and every case could impose an onerous and perhaps unacceptable burden on some small packers." C.S.D. 84-44; 18 Cust. Bull. at 946 (October 14, 1983).

Furthermore, several commenters noted that an obligation to list each and every source of imported juice would make compliance with the Country of Origin marking requirements very difficult if not impossible.5/ Once again, the Customs Service has acknowledged the validity of this concern in noting that it adopted Major Supplier Marking for orange juice to "facilitate compliance with the marking statute by eliminating the need to identify and disclose the names of those countries that supply a very small quantity of orange juice concentrate." 53 F.R. 20870 (June 7, 1988).

Finally, several commenters observed that requiring identification of all suppliers merely provides the consumer with a surfeit of useless information.6/ By requiring that all countries making even a minor contribution to the product be listed alongside major suppliers, the consumer will be given a "geography lesson" as to where apples are grown around the world, but will be left in the dark as to what countries are primarily responsible for the juice the consumer is drinking.

The only economically feasible solution for many juice processors confronting the additional expense and compliance burdens of listing each and every Country of Origin on their containers, will be to reduce the number of suppliers they utilize so as to simplify their marking obligations. The net effect will be two-fold: first, processors "locked in" to single source are subject to supply price changes that could have a significant price impact on U.S. consumers -- a problem that can be avoided under a proper Major Supplier rule. Second, locking in to Major Supplier countries will act as a non-tariff trade barrier, in which many smaller countries that supply apple concentrate will be functionally excluded from the imported juice concentrate market.

3/ See, e.g., Comments of Processed Apples Institute, Boden Products, Inc., Cadbury-Schweppes, Inc., Hartog Foods International, Inc., Milk Industry Foundation, National Juice Products Association, National Food Processors Association, Daystar International, Inc., Camerican International, Inc., Sunglo Cooperative, Inc., Apple Juice Group of the Association of Food Industries, Inc.

4/ See, e.g., Comments of the National Juice Products Association, the National Food Processors Association, Florida Citrus Processors Association. One of our members has advised us that given its processing lines that include two sizes of bottles, cans for frozen concentrate, and aseptic brik pak units, it will cost over $400,000 to install a working video jet system of marking on all lines. This includes head equipment which will tell the codes to start and stop. Also, all packages must be modified to leave 1/2 inch of unmarked space at the bottom of every container, because the position of the can cannot be controlled. The company estimates that increased operating costs will be an additional $200,000 a year.

5/ See, e.g., Comments of Boden Products, Inc., Cadbury-Schweppes, Inc., Apple Juice Group of the Association of Food Industries, Inc.

6/ See, e.g., Comments of Hartog Foods, Inc., Daystar International, Inc., Camerican International, Inc., Purcell & Associates.

The June 7, 1988 Federal Register Notice Changed the Customs Service's Major Supplier Marking Rule Without Providing Justification or an Opportunity for Comment

As previously noted, the Major Supplier Marking procedures outlined in the June 7, 1988 Federal Register Notice constitute a clear change in practice and position from that communicated by the Customs Service on September 10, 1986, as reflected in Exhibit A. While the June 7 construction of the Major Supplier Marking rule constituted a critical change in the Customs Service's position that effectively deprived apple juice processors of recourse to Major Supplier Marking, the change was made without explanation, justification or opportunity for comment.7/

19 C.F.R. § 177.10(c)(2) provides in relevant part that:

> Before the publication of a ruling which has the effect of changing a position of the Customs Service and which results in a restriction or prohibition, notice that the position (or prior ruling on which the position is based) is under review will be published in the Federal Register and interested parties given an opportunity to make written submissions with respect to the correctness of the contemplated change.

In changing its interpretation of Major Supplier Marking without providing opportunity for comment, the Customs Service has violated its own regulations. In National Juice Products Association v. United States, 628 F. Supp. 978 (CIT 1986), it was held that the Customs Service's failure to follow 19 C.F.R. § 177.10(c)(2), by applying country of origin marking requirements to orange juice concentrate and establishing an effective date for implementation of the rule without providing an opportunity to comment, was improper and necessitated a remand. At a minimum, therefore, the Customs Service should give interested parties an opportunity to submit comments on the Customs Service's change in position with respect to Major Supplier Marking.

Apart from the Customs Service's failure to provide opportunity for comment, its failure to analyze and respond to the numerous comments already received is by itself a violation of the Administrative Procedure Act. Alabama Power Co. v. Castle, 636 F. 2d 323 (D.C. Cir. 1979); 1 K.C. Davis, Administrative Law § 6.1 (Supp. 1982). None of the comments received by the Customs Service in response to its July 30, 1986 request for comments supported, implicitly or explicitly, a restrictive interpretation of Major Supplier Marking.8/

7/ In the June 7 interpretation of Major Supplier Marking, 53 F.R. 20836, the Customs Service cross-referenced to a notice of proposed rulemaking published the same day which proposed to eliminate Major Supplier Marking entirely and which solicited comments on the limited issue of whether the Major Supplier Marking rule should be eliminated. 53 F.R. 20867. Nowhere did the Customs Service provide an opportunity for comments as to how the Major Supplier Marking rule should be interpreted and applied if it is not eliminated. Because retention of Major Supplier Marking as interpreted by the Customs Service in 53 F.R. 20836 is tantamount to eliminating its avilability for imported apple juice, this petition requests the Customs Service to reconsider its interpretation of Major Supplier Marking.

8/ The only comment that might be misunderstood to support such a position, is that of the Michigan Agricultural Cooperative Marketing Association, which argued that "merely listing primary countries of origin will not satisfy the consumers' need to know the true country of origin." The thrust of this comment is simply that the countries listed on the container should be those whose juice is in the container rather than those whose juice may be in the container; it does not address the (footnote continued)

Every apple grower submitting comments, who supported Country of Origin marking and offered an explanation for his support, said that it was important for consumers to know where their juice came from because it would permit them to distinguish between products made in the United States and those that were imported.9/ The growers did not express an interest in having a juice container bear the name of countries contributing only a minor portion of the imported juice contained in the product. Given that the growers' concern is simply that juice products containing imported juice be identified for the consumer's benefit, growers should have no reason to oppose reasonable Major Supplier Marking procedures.

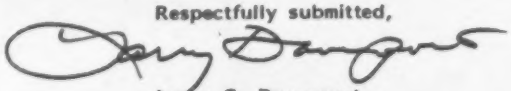
Conclusion

The Customs Service's June 7, 1988 interpretation of Major Supplier Marking is patently unreasonable and merits reconsideration. By limiting its application to juice products that derive 75% or more of their imported juice from a single country, Major Supplier Marking is rendered unavailable to apple juice processors.

Without a reasonable Major Supplier Marking procedure, Country of Origin marking for apple juice products will be prohibitively costly, will render compliance all but impossible, and will provide the consumer with irrelevant information that serves merely to confuse rather than to inform them. The failure of the Customs Service to provide an opportunity for public comment on its change of position with respect to Major Supplier Marking constitutes a violation of the Customs Service's own regulation. Moreover, the Customs Service has offered no explanation or justification for its restrictive June 7 interpretation of Major Supplier Marking, and no comment preceding the June 7 notice supported such an interpretation.

The foregoing is illustrative of the problems associated with extremely narrow interpretations of the Country of Origin Marking Statutes. Clearly, the burden of the legislation should be to communicate to U.S. consumers that products being offered are manufactured abroad or manufactured from imported raw materials. To require manufacturers to enumerate the countries per se when, as in the case of apple juices, some 38 countries export the basic raw material, the information becomes meaningless. Clearly, consumers are not making value judgments with respect to apple concentrate manufactured in a specific country or a combination of countries. This creates labeling chaos and additional expense with absolutely no commensurate benefit to consumers. We strongly urge the Committee to communicate its concerns to the Customs Service with respect to the instant interpretation or, if necessary, to amend the appropriate statutes to assure that reasonable Country of Marking Regulations are promulgated under the law.

Respectfully submitted,



Larry C. Davenport
Executive Director

(footnote 8/ continued)
propriety of listing only the major suppliers. The Major Supplier Marking rule does not require that every container have in it juice from all major suppliers, but only that the listed countries supply in any given year 75% of the juice used.

9/ See, e.g., Comments of Atlantic City Board of Agriculture, Georgia Farm Bureau Federation, Pennsylvania Farmers Association, Virginia Farm Bureau Federation, Washington State Farm Bureau, North Carolina Farm Bureau, American Farm Bureau Federation.

E. CLAY SHAW
15th DISTRICT, FLORIDA

REPLY TO:

440 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3026

DISTRICT OFFICE:
BROWARD FEDERAL BUILDING
299 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FL 33301
(305) 523-1050

COMMITTEE
WAYS AND MEANS
SUBCOMMITTEES:
OVERSIGHT
PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

Congress of the United States
House of Representatives
Washington, DC 20515

000335

RECEIVED
SEP 28 1988
SUBCOMMITTEE ON TRADE

September 21, 1988

Honorable Sam Gibbons
Chairman
Subcommittee on Trade
1136 Longworth House Office Building
Washington, D.C. 20515

Dear Sam:

As the Trade Committee prepares for its September 27, 1988 hearing on country-of-origin labeling requirements, I would like to share with you the attached, a letter I recently wrote on behalf of Lykes Pasco company.

Lykes Pasco, as you know, is a major processor of citrus fruit in Florida. They have expressed concern over a proposed Custom Service rule which significantly expands the labeling requirement for retail orange juice products.

This is an issue of relevance to the upcoming hearing which I would urge the Subcommittee to evaluate. If I can provide you with any additional information please contact me.

Sincerely,

E. Clay Shaw, Jr.
Member of Congress

ECS:jsy

cc: Honorable Philip M. Crane
Mr. Talmadge G. Rice

Attachment

E. CLAY SHAW
10TH DISTRICT, FLORIDA

WASHINGTON, DC 20515
(202) 225-3026

DISTRICT OFFICE
SEDGWICK FEDERAL BUILDING
500 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FL 33301
(305) 356-7390

COMMITTEE
WAYS AND MEANS
SUBCOMMITTEE
OVERSIGHT
PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

Congress of the United States
House of Representatives
Washington, DC 20515

September 8, 1988

Commissioner William von Raab
United States Custom Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Commissioner von Raab:

The Lykes Pasco company, located in South Florida, has brought to my attention a proposed U.S. Customs Service rule which significantly expands the labeling requirement for retail orange juice products.

According to Lykes Pasco, the proposed rule would impose a substantial burden on orange juice processors while providing only minimal benefits to consumers. Florida, as you are well aware, is a major grower of oranges and producer of orange products. Both domestic and imported oranges and concentrates are used in processing these products. It is my understanding, that currently the finished product must include a label of origin when a significant portion of the product is from a foreign source.

I do not dispute the importance of the origin label but do feel that the rules of compliance should be consistent with those of similar products, provide a justifiable result, and not place an excessive administrative and operational burden on those companies who must comply. Would you please provide my office with additional information on the Custom's Service proposed rule including its purpose, the reason for changing the Service's label of origin rule applicable to orange juice products issued in early 1987, and the Service's estimate of the cost of compliance by companies with the proposed rule.

Thanking you in advance for your timely consideration of this request. Please do not hesitate to contact me or John Smolko if you have any further questions.

With best wishes, I am

Sincerely,

E. Clay Shaw, Jr.
Member of Congress

ECS:jsy

CLAY SHAW
4 DISTRICT, FLORIDA

40 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
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COMMITTEE:
WAYS AND MEANS
SUBCOMMITTEES:
OVERSIGHT
PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

Congress of the United States
House of Representatives
Washington, DC 20515

September 8, 1988

Mr. Talmadge G. Rice
Executive Vice President
Lykes Pasco, Incorporated
P.O. Box 97
Dade City, FL 33525

Dear Mr. Talmadge:

I am in receipt of your letter regarding the proposed U.S. Custom Service rule on labels of origin.

Attached is a copy of my letter to Commissioner von Raab regarding the proposed rule. Once I receive his response I will be in contact with you once again. In the interim, would you please contact John Smolko on my staff at telephone 202-225-3026 with any additional information you might have regarding this issue.

Thank you for bringing this issue to my attention. I hope to be in contact with you soon.

Sincerely,

E. Clay Shaw, Jr.
Member of Congress

ECS:jsy

LYKES PASCO, INC.
P.O. BOX 97 · DADE CITY, FLORIDA · 33525

AUG 22 1988

TALMADGE G. RICE
EXECUTIVE VICE PRESIDENT

August 18, 1988

Congressman E. Clay Shaw, Jr.
440 Cannon House Office Building
Washington, DC 20515

Dear Congressman Shaw:

The U.S. Customs Service recently proposed a rule that would significantly affect the U.S. fruit juice processing industry, particularly Lykes Pasco, Inc.

Since February 1987, U.S. orange juice processors have been required to label retail orange juice products with the country of origin of any imported juice concentrate that is included in the product. Processors are not required to list minor or insignificant sources of foreign concentrate on the package, but only the "major sources" that account for a significant portion of the concentrate in the finished product. Although the current major source marking requirements impose costs on our company, Lykes Pasco has adjusted to them. These requirements were originally developed after much input from both Customs and juice industry officials. They are reasonable and workable.

Customs' recent proposal, however, would abandon major source marking. Customs proposes that fruit juice processors be required to list the source for each and every concentrate contained in a product. If implemented, this would literally cost millions of dollars and disrupt Lykes Pasco's business tremendously. Briefly, let me explain how.

Our company is the largest producer of private label juices in the world. Among the many juices we produce are orange, apple and pineapple. We source each of these concentrates domestically whenever possible, but very often, out of necessity, we must manufacture our products with a variety of domestic and foreign concentrates. Orange concentrate is a perfect example. Though we are one of the largest orange grove owners in the state of Florida, we still must import foreign orange concentrate. There are several reasons, among them quality and supply. First, there is simply not enough domestic concentrate to meet U.S. demand.

Secondly, because of quality standards foreign concentrate must be blended with domestic concentrate to meet both USDA and consumer expectations. These same arguments apply to other juices we manufacture.

As the largest private label producer, Lykes Pasco produces 398 different packages for its various apple, orange and pineapple juice products. If Customs' proposal is adopted, requiring Lykes Pasco to list every source of concentrate to be printed on the label, the estimated cost to us would be over $6 million. For some juices, there could conceivably be thousands of different label combinations. This cost estimate is probably understated because it assumes a stable source of supply and no need to change labels in the future. Obviously, an unlikely scenario given the demands of the U.S. juice market.

Frankly, the Customs proposal makes no sense. Although we do not object to country-of-origin marking, and in fact are marking our orange juice products at the present time, the Customs proposal would unduly burden Lykes Pasco and other juice processors without providing any corresponding benefit to consumers.

We hope that you will write to Customs to indicate your concern about this ill-conceived proposal.

Thank you for any assistance you can provide.

Best regards,

Talmadge G. Rice

TGR/cpj

TROPICAL ECOSYSTEM RESEARCH AND RESCUE ALLIANCE

TERRA International, P.O. Box 18391, Washington, D.C. 20036-8391 (202) 667-3827

STATEMENT BY RHONDA KRANZ

ON BEHALF OF

TERRA - TROPICAL ECOSYSTEM RESEARCH AND RESCUE ALLIANCE
ENVIRONMENTAL POLICY INSTITUTE
FRIENDS OF THE EARTH U.S.
RAINFOREST ACTION NETWORK
AND
U.S. PUBLIC INTEREST RESEARCH GROUP

BEFORE THE SUBCOMMITTEE ON TRADE

COMMITTEE ON WAYS AND MEANS

UNITED STATES HOUSE OF REPRESENTATIVES

(WITH ADDENDUM ON LABELING OF IMPORTED MEAT

BY JAMES D. NATIONS, Ph.D.)

September 27, 1988

Thank you for holding this important hearing and for the opportunity to testify on behalf of TERRA - Tropical Ecosystem Research and Rescue Alliance, Environmental Policy Institute, Friends of the Earth U.S., Rainforest Action Network, and U.S. Public Interest Research Group. These organizations, which represent the environmental and consumer communities, offer this testimony in general support of legislation requiring labeling of food imports with country of origin, and specific support of HR 2920, "Amendment to the Meat Inspection Act".

It is essential that country of origin labeling of food is seen as an issue of citizens' right to have the basic information needed to make informed decisions about their purchases. Country of origin labeling of food products provides an essential component in consumer choice. Such legislation would not impose restrictions on, nor create a barrier to, imports. It upholds the principal of free trade through consumer right to know and freedom of choice. Lack of such legislation has negative impacts on U.S. producers and consumers, and the environmental and ecomomic health of importing countries.

U.S. importation of meat and other food products has strong environmental, health, and socioeconomic implications. Although the U.S. has legislation to inspect food products before they enter the U.S., inspection of fruit and vegetables entering the U.S. is clearly inadequate; meat products entering the U.S. are better regulated than produce but quality is still an issue for some consumers. Beef from many Central American nations is often contaminated with toxic chemicals, trace metals, flies and/or maggots (Addendum 1, sect. 1A).

In addition to choices made based on a consumers perceived quality of imported food, the political and socioeconomic impact of the production and export of the food can be essential in consumer choice. The agricultural and land use practices of many countries are dependent on U.S. demand for their products. U.S. consumers have shown that they are willing to make product choices based on the effects of these practices. Last years successful boycott of Burger King for its use of beef from cattle raised on converted rainforests of Central America provides a good example, (see Addendum 2).

IMPORTED MEAT:
In the last two decades over 40% of Central American rainforests have been converted into pastures for production of beef. More than 90% of all beef products raised in Central America is imported to the U.S., mostly for use in the fast food market. U.S. citizens are becoming increasingly aware of the importance of tropical forests and the alarming rare of tropical deforestation. But the misuse of tropical forests for U.S. beef consumption has been shrouded in secrecy since it is almost impossible to identify the country of origin of beef once it enters the U.S., (Addendum 1, section 2).

Environmental organizations targeted Burger King after it admitted purchasing beef from Central America. An informational campaign which enabled consumers to choose whether they wanted to frequent Burger King on the basis of where it purchases its hamburger meat resulted in the company agreeing to stop buying Central American beef.

Legislation requiring labeling of imported meat with country of origin would have positive health, economic, and environmental impacts both in the U.S. and in the exporting countries. Legislation should address all sales and transfers of imported beef, imported edible beef products, and products containing imported beef including those used in restaurants, prepackaged foods and pet foods. (See Addendum 1)

IMPORTED PRODUCE:

The admitted failure of the U.S. Government to adequately monitor the 43 billion pounds of food imported each year (approximately 16% of the of the food consumed in the United States each year) provides a compelling reason that consumers be informed where the food they buy is grown, in order to enable them to make purchasing decisions. Only a small fraction of the total imported food shipments are inspected for pesticide contamination. For example, in 1982, only 14 samples were taken out of the two billion pounds of oranges imported into country. This is equivalent to one sample for every 2000 pounds of oranges inported. (Testimony on behalf of NRDC before the Subcommittee on Oversight and Investigations Committee on Energy and Commerce U.S. House of Representatives, April 30, 1987). Many food commodities imported into the U.S. contain banned or highly restricted pesticides such a chlordane, DDT, and ethylene dibromide (EDB), and contaminants such as dioxin. On the other hand, some countries export products that are potentially less harmful than those produced in the U.S. For example, Chile exports grapes to the U.S. which are lower in sulfite residues than certain domestic grapes.

U.S. consumers are becoming increasingly conscious of the implications of what they eat. The labeling of food with country of origin will be a meaningful step in providing U.S consumers with information needed to make informed choices based on health, environmental, social or economic factors.

ADDENDUM 1

BACKGROUND INFORMATION FOR WAYS AND MEANS HEARING ON LABELING OF IMPORTED BEEF

BY JAMES D. NATIONS, Ph.D.
FOR ENVIRONMENTAL POLICY INSTITUTE

Goal: To establish legislation requiring (1) imported fresh, chilled, and frozen beef, (2) imported edible beef products such as canned beef and beef sausages, and (3) products containing imported beef, including restaurant foods, pre-packaged foods, and pet foods, to be clearly labeled with their country of origin at all points of sale (including wholesale and retail) within the United States.

Background: No existing federal legislation requires foreign beef to be labeled with its country of origin once it has been inspected and passed by the U.S. Department of Agriculture at a U.S. port of entry. Lack of such legislation has negative impacts on U.S. consumers, U.S. beef producers, and the tropical forests and biological diversity of foreign beef-producing countries.

1. Why such a law is desirable.

Legislation achieving the stated goal would have positive impacts on at least three levels:

A. Health impacts: Beef imported from Latin American (especially Central American) nations frequently is contaminated with toxic chemicals, trace metals, flies, and/or maggots. For example, beef cattle in Central American nations are allowed to graze on residues left in cotton fields sprayed with DDT or may be fed cotton seed hulls from pesticide-sprayed cotton. DDT levels of up to 106.3 parts per million (ppm) have been found in the fat of imported Central American beef. The Environmental Protection Agency considers 5 ppm in beef sufficient reason to reject foreign beef shipments.

Contaminated beef shipments are rejected at the attempted port of entry if and when they are tested. However, only random samples of beef shipments are examined by U.S.D.A. officials for toxic chemicals or other contaminants. The sample is removed for analysis while the rest of the shipment may proceed to the marketplace--and the consumer--under the rationale that perishable food would spoil if held until test results are known. By the time test results are known, recall is usually impossible.

Shippers whose contaminated beef is tested and rejected may attempt to introduce the contaminated beef at a different United States port, where the rejected beef may or may not be selected once again for contamination sampling. Thus, beef rejected as contaminated at one port may enter the United States at a different port. Contaminated beef shipments which are tested and rejected are sold to other countries or returned to their country of origin to be eated by unsuspecting consumers.

Beef-packing plants from several Latin American countries, including El Salvador, Guatemala, Mexico, and Costa Rica, have periodically been removed from the list of packers certified to export beef to the United States due to excessive pesticide residues. The U.S.D.A. regularly publishes the names of meat-packers which are currented de-listed for beef exports to the United States. De-listed packing plants are allowed to continue exporting beef to the United States once they demonstrate that their current beef products are not contaminated. However, some packers are de-listed repeatedly.

Legislation that requires imported beef to be labeled with its country of origin all the way to the consumer would allow U.S. consumers to choose whether or not to purchase beef or beef products from countries with histories of repeated beef contamination.

B. Economic impacts:

U.S. beef producers claim that imports of foreign beef cut into their potential market and cost them income due to lost sales. Legislation requiring imported beef to be labeled with its country of origin all the way to the consumer would allow U.S. consumers to choose to purchase U.S.-produced beef rather than foreign-produced beef. Under the current situation, U.S. consumers have no way of knowing when they are purchasing beef produced in other nations.

C. Environmental impacts:

U.S. importers currently import more than 130 million pounds of fresh, chilled, and frozen beef from the Central American republics. One-quarter to one-half of this beef may be produced on pasturelands created by clearing and burning tropical forests. Tropical forests are the world's largest depository of plant and animal species and are the primary home of the biological diversity that the U.S. Congress has wisely chosen to protect for the benefit of present and future human generations. ("Tropical forests constitute a major world resource. Their destruction and loss pose a serious threat to development and the environment to developing countries" Sec. 117(d)(1) Environment and Natural Resources, Foreign Assistance Act of 1985).

U.S. citizens concerned about the fate of tropical forests and biological diversity currently have no way of knowing when they are purchasing beef products which contribute to the destruction of these important ecosystems and the plants and animals they contain. Legislation requiring imported beef to be labeled with its country of origin all the way to the consumer would allow U.S. consumers to chose not to purchase beef produced in countries where tropical forests are destroyed to graze beef cattle.

Declining demand for beef produced on cleared tropical forest land would defuse continuing pressures for the destruction of tropical forest and biological diversity in Central America.

2. How regulations should be effected:

The current lack of legislation allows importers of foreign-produced beef to mark their beef as "U.S.D.A. inspected" once it has passed into the United States, whereupon it becomes indistinguishable from U.S.-produced beef. Thus, neither secondary purchasers of the foreign beef nor consumers have any way of knowing the source of the beef they are using. Legislation should be passed requiring each receiver of foreign beef to continue labeling that beef as "imported", and to cite its country of origin all the way to its final destination--the consumer.

Thus, fresh, chilled, or frozen beef would be marked as imported and that marking would include the country of origin; cans of soup, beef stew, beef chili, t.v. dinners, sausages, pet foods, and all other such products containing imported beef would be clearly marked as containing imported beef and would cite the country of origin of the beef the product contains.

Because users of imported beef may vary their sources according to market prices or current availability, it may prove difficult to mark each individual product with the specific country of origin for each product lot. Therefore, labels could be composed to indicate that beef from various specific countries may be included in the product. For example: "This product may contain beef produced in one or more of the following countries . . ." (Similar labeling requirements already exist for products which use oil from one or more different types of plants, e.g. palm oil, safflower oil, corn oil, etc.)

Restaurants which serve beef products containing imported beef (hamburgers, chili, frankfurters, etc.) would not be required to label each product served; rather, they would be required to post a clearly visible sign which states: "This establishment serves beef products produced in the following countries . . ."

For health, economic, and environmental reasons, such labeling would allow U.S. consumers to choose whether or not to purchase products containing imported beef.

3. What the legislation should address:

The ideal legislation would be addressed toward all sales and transfers of (1) imported fresh, chilled, and frozen beef, (2) imported edible beef products such as canned beef and beef sausages, and (3) products containing imported beef, including restaurant foods, pre-packaged foods, and pet foods. The legislation would require these products to be clearly labeled with their country of origin at all points of sale or transfer (including wholesale and retail) within the United States.

James D. Nations, Ph.D.
Director of Research
Center for Human Ecology
2106 Rundell Place
Austin, Texas 78763

current address:
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U.S. Embassy - USIS (Guatemala)
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COMMITTEE ON FOREIGN AFFAIRS
COMMITTEE ON FOREIGN RELATIONS

Legislation on Foreign Relations Through 1985

APRIL 1986

CURRENT LEGISLATION AND RELATED EXECUTIVE ORDERS | VOLUME I

U.S. HOUSE OF REPRESENTATIVES
U.S. SENATE

Printed for the use of the Committees on Foreign Affairs and Foreign Relations of the House of Representatives and Senate respectively

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1986

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Washington, DC 20402

117

Sec. 117.[66] Environment and Natural Resources.—(a) The Congress finds that if current trends in the degradation of natural resources in developing countries continue, they will severely undermine the best efforts to meet basic human needs, to achieve sustained economic growth, and to prevent international tension and conflict. The Congress also finds that the world faces enormous, urgent, and complex problems, with respect to natural resources, which require new forms of cooperation between the United States and developing countries to prevent such problems from becoming unmanageable. It is, therefore, in the economic and security interests of the United States to provide leadership both in thoroughly reassessing policies relating to natural resources and the environment, and in cooperating extensively with developing countries in order to achieve environmentally sound development.

(b) In order to address the serious problems described in subsection (a), the President is authorized to furnish assistance under this part for developing and strengthening the capacity of developing countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible restore the land, vegetation, water, wildlife and other resources upon which depend economic growth and human well-being, especially of the poor.

(c)(1) The President, in implementing programs and projects under this chapter, shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for programs or projects under this chapter—

(A) to prepare and take fully into account an environmental impact statement for any program or project under this chapter significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

(B) to prepare and take fully into account an environmental assessment of any proposed program or project under this chapter significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this subsection.

(2) The President may establish exceptions from the requirements of this subsection for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

(d)(1) In [illegible] of this Act the Congress recognizes [illegible] and that [illegible] countries. The Congress [illegible] forests [illegible] and conserving [illegible] forest in developing countries. The loss [illegible] other world resources. Their preservation [illegible] development and the environment in developing countries. Tropical forest destruction and loss result in shortages of wood, especially wood for fuel; siltation of lakes, reservoirs and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production; and loss of genetic resources; and can result in desertification and in destabilization of the earth's climate. Properly managed tropical forests provide a sustained source of fiber and the other commodities essential to the economic growth of developing countries.

(2) The concerns expressed in paragraph (1) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be considered by the President—

(A) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities, and

(B) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

(3) It is the sense of the Congress that the President should instruct the representatives of the United States to the United Na-

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[66] Sec. 117 was repealed by Sec. 108(a) of the International Development and Food Assistance Act of 1978 (Public Law 95-424; 92 Stat. 949). Sec. 108(d)(1) of this Act (page 32) and sec. 601(a) of Public Law 97-113 (page 565) for current language concerning this issue.

[66] 22 U.S.C. 2151p. Sec. 118, as added by sec. 118 of Public Law 96-53 (93 Stat. 357) and amended by sec. 110 of Public Law 96-533 (92 Stat. 963) and sec. 122 of Public Law 96-53 (93 Stat. 949), was amended and restated by sec. 207 of the International Security and Development Cooperation Act of 1981 (Public Law 97-113, 95 Stat. 1529). Sec. 118 previously read as follows:

"Sec. 118. Environment and Natural Resources.—(a) The President is authorized to furnish assistance under this part for developing and strengthening the capacity of less developed countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible restore the land, vegetation, water, wildlife and other resources upon which depend economic growth and human well-being especially that of the poor.

"(b) In carrying out programs under this chapter, the President shall take into consideration the environmental consequences of development activities."

Addendum 2

Viewpoint

Our steak in the jungle

Much of Central America has been deforested over the past 25 years to form cattle pastures. A portion of the beef produced on these pastures is imported to the United States and transformed into luncheon meats, hamburgers, baby foods, and pet foods. The beef is lean and less expensive than anything we produce domestically. And for consumers, the notion that the meat on our lunch plate might have come from a steer that grazed on land that was previously tropical forest remains abstract.

But what *would* the consumption of a typical four-ounce hamburger represent in terms of pounds or square feet of tropical forest? A well-developed acre of Central American forest has about 800,000 pounds of plants and animals. After forest removal and pasture establishment, the cattle will gain about 50 pounds per acre per year, or 400 pounds during the eight-year lifetime of a typical pasture. Because about half the animal is composed of skin, bones, and other nonfood portions, the total beef production is 200 pounds (800 four-ounce hamburgers). Dividing the 800,000 pounds of forest life per acre by 800, the number of hamburgers produced during the lifetime of a one-acre pasture reveals that we "lose" about half a ton of forest for every hamburger produced in Central American forest. Considering the tradeoff in terms of area (43,793 square feet per acre divided by 800 hamburgers) reveals that each Central American forest hamburger represents about 55 square feet of forest—roughly the size of a small kitchen.

What life might inhabit the 55 square feet of tropical forest represented by a single hamburger? Such a space could contain one vigorous tree, 60 feet tall and weighing about 875 pounds. Below the tree might be some 50 saplings and seedlings in some 20–30 different species (another 120 pounds). Several of these plant species might be extremely rare with limited distributions. Living in the vegetation would be thousands of insects in more than a hundred species (as much as 2 pounds). Several of these insects would likely belong to species not yet known to science. Dozens of bird, reptile, and mammal species would regularly pass through and use this patch of forest (2 pounds). Finally, an almost unimaginable diversity and abundance of mosses, fungi, and microorganisms would be associated with leaf surfaces, bark, roots, and the soil (1 pound). All told, millions of individuals and thousands of species inhabit that patch of tropical forest represented by a single hamburger.

We have, as a nation, reduced our consumption of beef during the past decade and Central American beef imports have declined as well. What further steps could we take to lessen the impact of our consumption habits on Central American forests? First, we could refuse to consume Central American beef. Legislation requiring the labeling of imported meat could help in this, allowing consumers to make informed choices that could influence the market. More comprehensive legislation to phase out beef imports from tropical forests would be even better. The United States buys most of the beef exported from Central America. If it were to cease importing this beef, its price within Central America would decline and this, in turn, would reduce the incentive to clear more forest. Although eliminating beef imports would hurt Central American economies, revenues from beef exports are far below those from traditional food exports such as coffee, sugar, and bananas. Furthermore, the benefits of maintaining tropical forests in their natural form would far outweigh any short-term crises.

We in North America could also promote greater efficiency in the use of already cleared tropical forest lands. We could halt the huge loans from international development banks that support the beef export industry and redirect this support into ecologically sound systems of intensive food and fiber production, such as agroforestry.

The Central Americans themselves will have to make the ultimate choices. Initially, conversion of tropical forest to cattle pastures looked like a good bet for increasing domestic beef supplies and generating foreign exchange. Now, it is apparent that cattle pastures do not produce for very long. Furthermore, once abandoned, these lands return to forest slowly and may never contain their original forest species. So, the short-term capital gain comes at a high price in natural resources. Central American nations are coming to realize that tropical forests may be more valuable in their natural state—as sources of timber, raw materials, and new food and drug plants—than converted into ephemeral hamburgers. These attitudinal changes take time, and with time comes the inevitable loss of more rainforest. In the meantime, we North Americans must consider if shaving a nickel off the price of domestic hamburger through importing Central American beef is worth the degradation of one of the last bastions of biological diversity and natural wonder in the biosphere.

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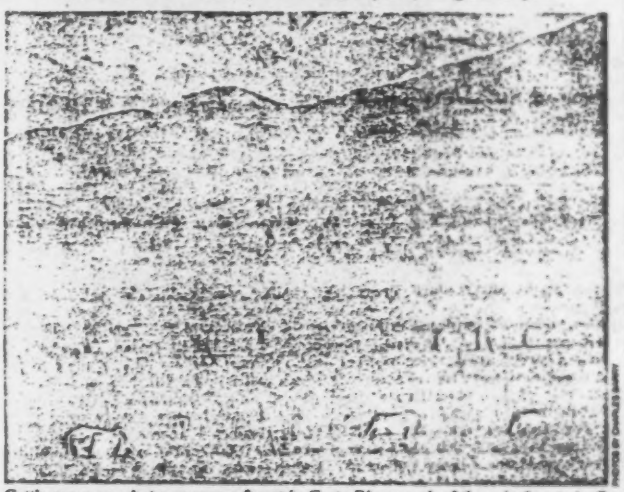
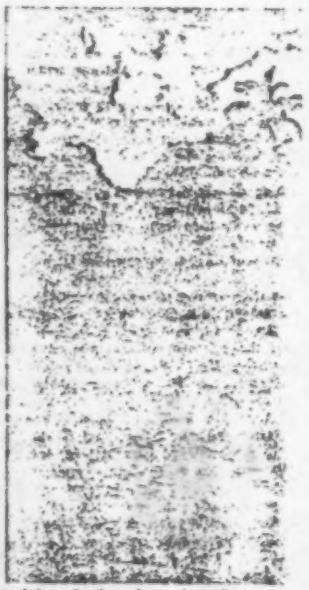
BUSINESS

Forestland in the Belly of the Beef

SUMMARY: To satisfy the U.S. market for cheap, imported beef, rain forests in Central America have been cleared to allow for cattle production. While international banking institutions have financed this endeavor, environmentalists based in the United States are fighting to save the land and its wildlife, which they say are being destroyed.





Cattle graze on what was once a forest in Costa Rica; much of the rain forests in Central America have been cleared.

The environmental crusade to save the rain forests of Central America is not centered in Guatemala or Honduras or Costa Rica or in the numerous other countries whose rain forests have been devastated since the Second World War. It is centered in Washington, D.C. This may seem odd, especially since it is not the United States that has slashed and burned more than two-thirds of the rain forest hinterland of Central America since 1950.

But after environmentalists admit the limitations of their power and place — "We're really not in a position to tell Central American governments what to do with their land," says Randy Hayes of the Rainforest Action Network — they have a very simple explanation for where they wage their wars on behalf of the rain forest. This, they say, is a problem rooted in the policies of the United States as much as it is a problem caused by the governments of Central America.

Rain forest land is cleared primarily to be used as pasture for cattle. Because of the enormous U.S. market for cheap, imported beef, Central American countries over the past 20 years have been clearing more and more land to expand their production of beef for export.

This policy has been encouraged not just by the governments of Central America, which have provided low-interest loans and free land to cattlemen, but also by U.S.-backed multilateral developmental organizations such as the World Bank and the Inter-American Development Bank, which have provided generous loans for road construction, meat-packing plants and pest eradication.

Since 1963, the World Bank has lent funds for cattle ranching to every Central American nation except El Salvador and has provided more credit for livestock, chiefly beef, than for any other agricultural activity. During 1984, for example, the bank funded more than a third of the cost of a $25.5 million project in Panama to increase beef exports.

The bulk of the funds for livestock, however, comes from the Inter-American Development Bank, which calls beef production "highly suited" to the region and has provided a steady stream of developmental funds. No one questions the motives behind these loans. The expansion of beef production is a quick and easy way for these countries to generate much-needed foreign exchange. But, says one Capitol Hill staffer who has been tracking the activities of the World Bank, there are "too many economists in that place and not enough scientists."

Cattle grazing may make sense in the short run, but after about 10 years, the effects of overgrazing and torrential rains turn the rain forest into eroded wasteland. During the first year after clearing, nutrient-poor rain forest land can support one head of cattle per 2.5 acres; in five to 10 years that drops to one head per 17.5 acres.

"Environmental concerns just aren't a priority over there," says Alex Echols, who works for Wisconsin Republican Robert W. Kasten Jr., the key figure in a Senate effort to save rain forests. If the World Bank would do even a simple land use analysis before funding its projects, says Echols, it might be able to avoid the ecological disasters that mar its development record.

The infamous Polonoreste in Brazil, for example, saw the bank finance the decimation of an area the size of Great Britain. Kasten, in addressing an environmental protest prior to the World Bank's annual meeting, cited the Polonoreste project as an "outrageous abuse of taxpayers' dollars." It "cut down native rain forests, destroying fragile soils and wildlife, choking waterways with silt, disrupting fisheries, and resulting in the spread of disease. In short," he said, "what had been a rich, sustaining ecosystem has been destroyed and replaced by a wasteland."

Last year Kasten sponsored legislation passed by Congress that directed the U.S. executive directors of all multilateral developmental groups to promote environmentally sound policies vigorously and increase the numbers of environmental evaluators on staff. "If these measures were implemented," says Hayes, "there could be a big change."

But so far, little has happened. World Bank officials will only point defensively to the environmental policy office they have had since 1970 and denounce environmental groups as publicity seekers. "Hey, it's a tough cookie," says Peter Riddleberger of the bank's public affairs office. "Look, I grew up in North [New] Jersey, which is one of the most polluted areas on Earth, and they're only now figuring out how to balance environmental factors with economic growth."

For Kasten, the best route to saving the rain forests lies in pressuring the World Bank directly. After conducting hearings on the Polonoreste project, for example, in the Senate Appropriations Subcommittee on Foreign Operations in March 1984, he waged an 18-month battle to kill the plan. He wrote to A.W. Clausen, the World Bank president then; he insisted on World Bank oversight by the Treasury Department; he set up meetings between environmentalists and World Bank staff; and he held another round of hearings in September. Kasten, the outgoing chairman of the Foreign Operations Subcommittee, is known on Capitol Hill as someone passionately interested in Third World economic development who does not believe it should come at the expense of the environment.

The approach of environmental groups tends to be a bit less nuanced. The Rainforest Action Network has presented World Bank President Barber Conable with an ultimatum: Change the bank's policy toward Third World development in six months or face an all-out campaign by environmentalists to slash the institution's funding.

When the network organized a citizens conference on rain forests last spring, 14 resolutions and demands were passed. Chief among them was a call for a ban on imports of beef from tropical countries. Hayes hastens to add that this proposed ban is not insensitive because it would provide exemptions for nations that could show their cattle production did not contribute to deforestation. And there would be financial assistance for those who would suffer economically by ending beef production.

But at the root of the more radical environmental approach is an independent determination that cattle raising is not something that is ultimately in the best economic interests of Central American countries. Jim Nations, a researcher with the Center for Human Ecology in Austin, Texas, and one of the country's leading deforestation experts, has stressed in numerous journal and magazine articles the inefficiency of Central American cattle grazing.

Even under the best of circumstances, he says, yields are unacceptably low and local economies would fare much better devoting their energies elsewhere.

Cutting off the export market for Central American beef, according to his analysis, would force Latin Americans to develop more efficient agricultural methods and deal directly with land reform instead of buying off landless peasants with parcels of rain forest.

"It doesn't bother me a bit that some people would be harmed by an American import ban," he says. "The only people who benefit from that industry are the people who already have enough money, . . . a small economic and political elite."

Nations says he does not like to talk about the politics of the region, but in the end he cannot help it. "When the people rise up," he says, "the rich all move to Miami and draw on their bank accounts. They've got it all figured out."

But do they? Craig Vangrassteck, a Washington-based economic consultant who deals with Central America, speaks of finding "a lot of very glib arguments" from environmentalists about how best to change the policies of the region and what effect halting beef exports would really have on local economies. For most Central American countries, beef provides close to 10 percent of foreign exchange earnings, and without a comparable source of revenue on the horizon, they are hardly in a position to get out of the beef business.

"Those who think that a ban won't hurt us are really out to lunch," insists Jose Orive of the Guatemalan Embassy in Washington. But then U.S. pressure on his country's beef production is nothing new. There were complaints about levels of DDT in the early 1970s, he says, and President Carter made beef a "political football" in his campaign to push human rights reform in Guatemala. Tougher meat-packing standards pushed through in 1982 forced Guatemala to upgrade cattle raising techniques.

Still, Guatemala pushes on. "It's a major export for us," Orive says. "We're definitely trying to expand."

"You just can't force somebody to suddenly care about the environment," says Riddleberger of the World Bank.

Especially all the way from Washington, D.C.

— Malcolm Gladwell

United Fresh Fruit and Vegetable Association

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September 23, 1988

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SUBCOMMITTEE ON TRADE

The Honorable Sam Gibbons
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the United Fresh Fruit and Vegetable Association, I respectfully submit the following comments for consideration by the subcommittee and inclusion in the hearing record. United is the national trade association representing all segments of the fresh fruit and vegetable industry. Our members handle over 80 percent of the fresh produce commercially marketed in the United States. The membership is composed of growers, shippers, wholesalers, retailers, importers and exporters of fresh fruits and vegetables.

United does not oppose country of origin labeling. However, United does oppose government mandated labeling of any kind including country of origin. This policy has been reviewed and reaffirmed many times over the years.

Our members tell us that they want less government regulation and fewer laws, not additional laws, that raise costs to all segments of the industry and are passed on to consumers. Country of origin labeling serves no useful purpose, and is an unnecessary intrusion by the federal government in the marketing of our products.

The marketing decision as to whether to label or to provide other forms of information to consumers must be left to retailers. Retailers must react to consumer needs each and every day if they are to stay in business. If consumers truly want country of origin labeling, then the retailers will respond. They will respond with information in a form that is practical and can be best understood by consumers, not in a form mandated by the federal government.

It is indeed unfortunate that this issue has been described by proponents as a grower vs. retailer matter. Nothing could be further from the truth. Growers and organizations of growers such as the California Citrus Mutual, the California Grape and Tree Fruit League, Texas Citrus and Vegetable Association and other commodity groups are all opposed to labeling.

It is clear from the surveys that consumers do not care about the country of origin when they purchase produce commodities. A produce trade paper, "The Packer", in the 1987 Fresh Trends survey, asked that question of consumers from around the country. Consumers responded that they look for freshness, cleanliness, taste, price, looks appeal and nutritional value when purchasing fresh produce. The place of origin was ranked twelfth out of thirteen characteristics important to consumers when purchasing produce. In another related question, the survey asked consumers to rank seven types of information that they might find useful when purchasing fresh produce. The place of origin was ranked last in importance.

Retailers, wholesalers and others in the distribution chain are rightfully concerned about country of origin labeling. Accurate labeling of this type, particularly on fresh produce, is almost impossible for retailers. Although a retailer may make every attempt to abide by the law, rapid turnover of displays results i. inaccurate labeling. United's members are concerned that it would be unfair to put retailers in a position where mistakes are inevitable.

Accurate labeling is beyond the produce manager's control. All too often, consumers will return unwanted produce to the wrong bin. Displays coming from different parts of the world could be intermingled by consumers, thus resulting in inaccurate labeling. Retailers would be put in a position of being responsible for someone else's actions. With over 250 produce items, many imported particularly during the winter months, mandatory retail country or origin labeling is an unnecessary and burdensome intrusion in the marketing of produce.

Proponents of country of origin labeling often cite the need to promote American produce and the need to combat unfair and illegal pesticide use by foreign competitors as two reasons why labeling is needed. United feels that these problems can be better addressed with other approaches.

What is the best way to encourage Americans to buy American produce? Segments of the industry are already promoting the high quality of American produce in an effort to increase sales. They know that negative campaigns aimed at foreign imports do not sell even one additional fruit or vegetable grown in the U.S. Various states, including New York and Florida for example, and, of course, commodity groups, are energetically promoting their agricultural products.

Another reason cited by proponents of country of origin labeling is to draw attention to alleged illegal levels of pesticides found in produce grown in foreign countries. This negative publicity will hurt the entire U.S. produce industry. Our record for nutritious, healthy and safe food could be tarnished. The industry and government must continue to work together to ensure safe food for consumers.

Two recent General Accounting Office reports indicate that a small percentage of both domestic and foreign grown produce contain illegal levels of pesticides. For this reason, United has been seeking additional congressional appropriations for the Food and Drug Administration so that they can improve their inspections of all imported and domestically grown produce commodities. It is essential that the FDA continue to ensure safe food by preventing the marketing of produce containing illegal levels of pesticides. Country of origin labeling does not even begin to address this issue.

If the real intent is to promote U.S. grown produce, then "Buy American" promotional campaigns are a more effective avenue. If the real intent is to protect products from foreign competition, then existing trade laws that are designed specifically for that purpose should be used.

Research has conclusively shown that the consumer places country of origin in a low priority when making produce selections. The time to stop produce containing illegal pesticides is before the item reaches the shelf through expanded FDA testing. Country of origin labeling is a marketing decision to be left with retailers.

Thank you for this opportunity to submit comments. Please do not hesitate to contact United with additional questions or concerns.

Sincerely,

Sharon E Bomer

Sharon E. Bomer
Director, Government Relations

Enclosure

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September 26, 1988

Honorable Sam M. Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

RE: COUNTRY-OF-ORIGIN LABELING REQUIREMENTS
FOR IMPORTED FOOD PRODUCTS

Dear Chairman Gibbons:

On behalf of the United States Tuna Foundation, a non-profit trade association consisting of all segments of the U.S. tuna industry, we hereby submit the following statement in opposition to country-of-origin labeling requirements for imported food ingredients.

In order to meet U.S. needs for canned tuna, U.S. tuna processors purchase tuna from a large network of both U.S. and foreign sources. While the main source of raw product is the domestic tuna fleet, this fleet has only been able to produce about 50 percent of the U.S processors annual requirements. Thus, in order to remain competitive, U.S. processors have routinely had to purchase raw product from as many as 45 different foreign sources of supply (see attached). Because the U.S. Bureau of Census reports some of the foreign sources as "areas," which may include more than one country, the actual number of source nations is larger than 45.

Not only are there multiple sources, but because tuna is moved through a complex international network of brokers, traders and fishing companies, often located in different countries, the proposed country-of-origin labeling requirement would create a bureaucratic nightmare. The U.S. Bureau of Census sometimes even incorrectly identifies a transshipping nation as the country of origin instead of the country whose flag vessel harvested the fish.

The U.S. process of manufacturing canned tuna often requires the blending of a variety of different species of tuna. This is important for several reasons including, the achievement of a uniform quality pack, attainment of certain quality characteristics, taste characteristics, and the efficient operation of canning facilities. As a result of this process a high proportion of the individual cans of tuna packed in the U.S. have fish from multiple, and changing, sources.

Since each can of tuna may involve raw material from any multitude of different origins, an essentially impossible labeling situation results if each country has to be identified. The number of labels would be nearly limitless and totally unmanageable. The attempt to label country of origin would add significantly to the cost of canned tuna and provide no concurrent benefit to the consumer. Additional costs would have to be passed on to the consumer as a consequence.

The label size of a 6.5 ounce can of tuna is approximately 1-1/4 x 10-1/2 inches. A tremendous amount of information is currently included on these labels as is mandated by the Food and Drug Administration. In addition, much of the canned tuna includes nutrition labeling. The U.S. tuna industry supports nutrition labeling as an important information source for consumers. However, if country-of-origin labeling were to be mandatory, some companies may have to drop nutrition labeling in order to comply with this new requirement. We do not believe the consumer would be served by this new requirement.

In addition to U.S. processed canned tuna, a greal deal of canned tuna is imported in finished form into the U.S. each year. This product must be labeled with its country of origin, which is proper, but the requirement is only for the country in which it is processed. Some of these countries also use multiple sources of raw fish. Even if a foreign nation could comply with the country-of-origin requirement, they would be faced with the same difficulties the U.S. processors would face. Again, the cost increase would have to be passed onto the American consumer. Furthermore, unlike in the U.S., there would be no way to authenticate any labeling claims from foreign nations.

We strongly support the action taken by the Congress in rejecting country-of-origin labeling requirements during consideration of the Omnibus Trade and Competitiveness bill. It is an unnecessary, burdensome and economically prohibitive requirement. The proposal would also penalize U.S. industries that must supplement domestic sources of supply with imports.

Sincerely,

Randi P. Thomas

RANDI PARKS THOMAS

Attachment

United States Tuna Foundation

ATTACHMENT ONE

COUNTRY OF ORIGIN OF FRESH AND FROZEN
TUNA EXPORTS TO THE U.S.

For 1988, the U.S. Census Bureau has reported imports of fresh and frozen tuna from: Canada, Panama, Cayman Islands, Dominican Republic, British Virgin Islands, Barbados, Trinidad and Tobago, Netherlands Antilles, Venezuela, Ecuador, Chile, Brazil, Netherlands, Portugal, Singapore, Philippines, Southern Asia, Korea, Taiwan, Japan, Senegal, Ivory Coast, Mauritius, Indian Ocean Areas, Namibia, Mexico, Costa Rica, France, Spain, Italy, Cyprus, United Arab Emirates, Oman, Australia, New Zealand, Southern Pacific Islands, Federated States of Micronesia, Ghana, Seychelles, Norway, Greece, Indonesia, Uruguay, Turks and Caicos Islands, and Tunisia.

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